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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–2023–2436; Special Conditions No. 25–851–SC]

Special Conditions: Gulfstream Aerospace Corporation Model GVIII–G700 and GVIII–G800 Series Airplanes; Installation of Therapeutic Oxygen System

AGENCY: Federal Aviation Administration (FAA), 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 the installation of a therapeutic oxygen system for medical use. 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 25, 2024. Send comments on or before March 11, 2024.

ADDRESSES: Send comments identified by Docket No. FAA–2023–2436 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: Robert Hettman, Mechanical Systems, AIR–623, Technical Policy Branch, Policy and Standards Division, Aircraft Certification Service, Federal Aviation Administration, 2200 South 216th Street, Des Moines, Washington 98198; telephone and fax 206–231–3171; email *robert.hettman@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 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 series airplanes will incorporate the following novel or unusual design feature:

An oxygen distribution system that provides a shared source of oxygen between the flightcrew and passengers to provide supplemental and therapeutic oxygen.

Discussion

No specific regulations address the design and installation of required passenger or crew oxygen systems that share a supply source with an optional oxygen system used specifically for therapeutic applications. Therapeutic oxygen systems have been previously certified, and were generally considered an extension of the passenger oxygen system for the purpose of defining the applicable regulations. As a result, existing requirements, such as 14 CFR 25.1309, 25.1441(b) and (c), 25.1451, and 25.1453, in the Gulfstream Aerospace Corporation Model GVIII–G700 and GVIII–G800 airplanes' certification basis applicable to this project, provide some design standards appropriate for oxygen system installations. In addition, § 25.1445 includes standards for oxygen distribution systems when oxygen is supplied to crew and passengers. If a common source of supply is used, § 25.1445(a)(2) requires a means to separately reserve the minimum supply required by the flight crew.

Section 25.1445 is intended to protect the flightcrew by ensuring that an adequate supply of oxygen is available to complete a descent and landing following a loss of cabin pressure. When the regulation was written, the only passenger oxygen system designs were supplemental oxygen systems intended to protect passengers from hypoxia in the event of a decompression. Existing passenger oxygen systems did not include design features that would allow the flightcrew to control oxygen to passengers during flight. There are no similar requirements in § 25.1445 when oxygen is supplied from the same source to passengers for use during a decompression, and for discretionary or first-aid use any time during the flight. In the design, the crew, passenger, and therapeutic oxygen systems use the same source of oxygen. These special conditions contain additional design requirements for the equipment involved in this dual therapeutic oxygen plus supplemental gaseous oxygen installation.

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 Gulfstream model GVIII–G700 and GVIII–G800 series 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.

The distribution system for the passenger therapeutic oxygen system must be designed and installed to meet requirements as follows:

(1) When oxygen is supplied to passengers for both supplemental and therapeutic purposes, the distribution system must be designed for either—

(a) A source of supplemental oxygen for protection following a loss of cabin pressure, and a separate source for therapeutic purposes; or

(b) A common source of supply with means to separately reserve the minimum supply required by the passengers for supplemental use following a loss of cabin pressure.

Issued in Kansas City, Missouri, on January 19, 2024.

Patrick R. Mullen,

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

[FR Doc. 2024–01379 Filed 1–24–24; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–2023–2444; Special Conditions No. 25–849–SC]

Special Conditions: Gulfstream Aerospace Corporation Model GVIII–G700 and GVIII–G800 Series Airplanes; Side Stick Controllers—Controllability and Maneuverability

AGENCY: Federal Aviation Administration (FAA), 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 side-stick controllers for pitch and roll control. 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 25, 2024. Send comments on or before March 11, 2024.

ADDRESSES: Send comments identified by Docket No. FAA–2023–2444 using any of the following methods:

- *Federal eRegulations Portal:* Go to *https://www.regulations.gov/* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30, U.S. Department of Transportation (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.
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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: 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 *https://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.

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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 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 Feature

The Gulfstream Model GVIII–G700 and GVIII–G800 series airplanes will

incorporate the following novel or unusual design feature:

Side-stick controllers for pitch and roll control.

Discussion

These special conditions for the Gulfstream Model GVIII–G700 and GVIII–G800 series airplanes address the unique features of the side-stick controllers. The Model GVIII–G700 and GVIII–G800 series airplanes will incorporate side-stick controllers controlling a fly-by-wire (FBW) flight-control system. The FBW control laws are designed to provide conventional flying qualities such as positive static longitudinal and lateral stability as prescribed in part 25, subpart B. However, the pilot-control forces prescribed in the referenced regulations are not applicable for the side-stick controller design.

Because current FAA regulations do not specifically address the use of side-stick controllers for pitch and roll control, the unique features of the side stick therefore must be demonstrated, through flight and simulator tests, to have suitable handling and control characteristics when considering the following:

- The handling qualities tasks and requirements of the Gulfstream Model GVIII Special Conditions and other 14 CFR part 25 requirements for stability, control, and maneuverability, including the effects of turbulence.
- General ergonomics: Armrest comfort and support, local freedom of movement, displacement-angle suitability, and axis harmony.
- Inadvertent pilot input in turbulence.
- Inadvertent pitch and roll crosstalk from pilot inputs on the side-stick controller.

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 Gulfstream Model GVIII–G700 and GVIII–G800 series 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 the Gulfstream Aerospace Corporation Model GVIII–G700 and GVIII–G800 series airplanes:

(a) Pilot Strength

In lieu of the control-force limits shown in § 25.143(d) for pitch and roll, and in lieu of the specific pitch-force requirements of §§ 25.143(i)(2), 25.145(b), 25.173(c), 25.175(b), and 25.175(d), the applicant must show that the temporary and maximum prolonged-force levels for the side-stick controllers are suitable for all expected operating conditions and configurations, whether normal or non-normal.

(b) Pilot-Control Authority

The electronic side-stick-controller coupling design must provide for corrective and/or overriding control inputs by either pilot with no unsafe characteristics. Annunciation of the controller status must be provided and must not be confusing to the flightcrew.

(c) Pilot Control

The applicant must show by flight tests that the use of side-stick controllers does not produce unsuitable pilot-in-the-loop control characteristics when considering precision path control and tasks, and turbulence. In addition, pitch and roll control force and displacement sensitivity must be compatible, so that normal pilot inputs on one control axis will not cause significant unintentional inputs (crossover) on the other.

Issued in Kansas City, Missouri, on January 19, 2024.

Patrick R. Mullen,

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

[FR Doc. 2024–01380 Filed 1–24–24; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 93

Construction Related Relief Concerning Operations at Ronald Reagan Washington National Airport, John F. Kennedy International Airport, and LaGuardia Airport, and Newark Liberty International Airport, March 31, 2024, Through October 26, 2024

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

ACTION: Notification of limited waiver of the slot usage requirement.

SUMMARY: This action grants a limited, conditional waiver of the minimum slot usage requirements at Ronald Reagan Washington National Airport (DCA) due to runway construction and closures at the airport in 2024 and for impacted flights between DCA and slot-controlled airports John F. Kennedy International Airport (JFK) and LaGuardia Airport (LGA). In addition, the FAA will provide similar limited, conditional relief at Newark Liberty International Airport (EWR) under the FAA's Level 2 schedule facilitation process.

DATES: The usage waiver and policies in this notification are effective on January 22, 2024, and apply from March 31, 2024, through October 26, 2024.

ADDRESSES: Requests may be submitted by mail to the Slot Administration Office, System Operations Services, AJR–0, Room 300W, 800 Independence Avenue SW, Washington, DC 20591, or by email to: *7-awa-slotadmin@faa.gov.*

FOR FURTHER INFORMATION CONTACT: For questions concerning this notification contact: Al Meilus, Slot Administration and Capacity Analysis, FAA ATO System Operations Services, AJR–G5, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone 202–267–2822; email *al.meilus@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Metropolitan Washington Airports Authority (MWAA) plans airfield and runway construction at DCA beginning in April 2024 through October 2024. The main Runway 1–19 will be closed nightly from approximately April 15, 2024, through August 5, 2024,[1] from 11 p.m. to 5:59 a.m. Eastern Time on weekdays and

[1] Phase 4: RWY 1/19 closure—April 15, thru May 14, 2024 (2300–0600L). Phase 5: RWY 1/19 closure—May 15 thru Aug 5, 2024 (2300–0600L).

potentially on weekends depending on the construction project's progress. Runway 15–33 will have nightly closures [2] from approximately May 28, 2024, through June 14, 2024, from 10:30 p.m. to 5:29 a.m. Eastern Time, including the intersection with Runway 1–19. For the final phases 6 and 7 of DCA construction, Runway 15–33 will have nightly closures from approximately August 6, 2024, through October 12, 2024, from 8 p.m. to 5:59 a.m. Eastern Time. Associated taxiways will also be rehabilitated during the project.

The FAA limits the number of arrivals and departures at DCA through the implementation of the High Density Rule (HDR).[3] The HDR hourly limits at DCA are 37 air carrier slots, 11 commuter slots, and 12 reservations available for other operations.[4] The ''Other'' class of users is limited to unscheduled operations such as general aviation, charters, military, and non-passenger flights and is not intended for scheduled flights or other regularly conducted commercial operations. The FAA limits the number of arrivals and departures at JFK and LGA by FAA Order.[5]

At DCA, JFK, and LGA, each slot must be used a minimum of 80 percent of the time.[6] At DCA and LGA, the FAA will recall any slot not used at least 80 percent of the time over a two-month period.[7] At JFK, usage is calculated seasonally, slots not meeting the minimum usage requirement will not receive historic status for the following equivalent scheduling season.[8] The FAA may waive the 80 percent minimum usage requirement if a highly unusual and unpredictable condition beyond the control of the slot-holding air carrier affects carrier operations for a period of five consecutive days or more at JFK and LGA and nine consecutive days or more at DCA.[9]

The FAA designated EWR a Level 2 airport under the Worldwide Slot Guidelines (WSG), now known as the Worldwide Airport Slot Guidelines (WASG). The FAA does not allocate slots, apply historic precedence, or impose minimum usage requirements at EWR. Level 2 schedule facilitation depends upon close and continuous discussions and voluntary agreement between airlines and the FAA to reduce congestion. At Level 2 airports, the FAA generally provides priority consideration for flights approved by the FAA and operated by the carrier in those approved times in the prior scheduling season when the FAA reviews proposed flights for facilitation in the next corresponding scheduling season. However, the FAA notes that the usual Level 2 processes include flexibility for the facilitator to prioritize planned flights, which are canceled in advance or on the day of the scheduled operation due to operational impacts that are beyond the control of the carrier.

Summary of Petitions Received

On December 22, 2023, Airlines for America (A4A) filed a petition on behalf of member and associate member airlines [10] requesting a limited waiver of the minimum slot usage rules at DCA due to the impending runway construction. The petition also sought either a limited waiver of the minimum slot usage requirements or schedule relief at LGA, EWR, and JFK for slots or movements for nonstop flights to and from DCA during specified hours. A4A states that ''construction at DCA will impose conditions that will significantly impact operations and those conditions are beyond the control of the slot holders, thereby providing good cause for the requested waiver.''

A4A indicates ''the nighttime closing of the main runway 1–19, which will significantly impact carriers that hold slots in the 2300 hour by forcing them to utilize runway 15–33 or not operate at all during those times.'' A4A notes that ''for many carriers, the option to use runway 15–33 will have a significant negative impact because some aircraft such as the 737–900/ER/MAX are unable to use that runway'' and ''other aircraft will need to apply hefty payload penalties to operate on runway 15–33, for example some aircraft would need to reduce between 50 and 75 passengers on all but the shortest routes.''

A4A also requests relief for slot pairs associated with the 2300–0559 closure period, noting carriers may seek alleviation for the slot pairs affected by the closures, which may be outside the 2300–0600 hours and requests the FAA ''work with carriers on an individual basis to determine their slot pairing needs and requests as carriers' monthly schedules develop.''

In addition, A4A requests relief for slot usage associated with several operations between DCA and JFK, EWR, or LGA. Specifically, A4A requests the FAA grant slot usage or schedule alleviation to ''departure slots between 2100 and 2200 used for nonstop service to DCA, as such flights typically arrive at DCA in the 2300 hour'' and ''for any DCA departure slots between 0500 and 0659 used for nonstop service to those slot-controlled or schedule facilitated New York airports.''

FAA Analysis and Decision

The FAA has determined the DCA airport construction and runway closures warrant limited, conditional relief from the minimum slot usage requirements because the impacts to operations in certain hours are beyond the carriers' control and will exist for several months. The closures from 2300–0559 Eastern Time are expected to impact operations as described by A4A.

DCA is a high-demand airport, and carriers have indicated they plan to operate flights if feasible. There are typically 15 to 16 arrivals in the 2300 hour with the corresponding aircraft used for departures in the morning hours with additional potential for a few cancellations in the late evening hours and the corresponding departures. The FAA is not limiting the relief to certain hours in order to provide some degree of flexibility to carriers to allow them to balance schedules and slot pairs. However, the FAA may require carriers to justify how returned slots are impacted by the runway closure if returned slots are not during or adjacent to the runway closure periods.

The FAA will work individually with carriers on retiming and schedule adjustment options; however, the FAA will not retime air carrier operations into hours that are currently at the air

[2] Phase 5: RWY 15/33 is closed (0000–0530L Sun–Fri & 2230–0530L Sat) 5/28–6/14/24 [Intersection surface course].

[3] 33 FR 17896 (Dec. 3, 1968). The FAA codified the rules for operating at high-density traffic airports in 14 CFR part 93, subpart K. The HDR requires carriers to hold a reservation, known as a ''slot,'' for each takeoff or landing under instrument flight rules at the high-density traffic airports. Currently, only operations at DCA are limited by the HDR.

[4] 14 CFR 93.123.

[5] Operating Limitations at John F. Kennedy International Airport. 73 FR 3510 (Jan. 18, 2008), as amended, and most recently extended by 87 FR 65161 (Oct. 28, 2022). Operating Limitations at New York LaGuardia Airport. 71 FR 77854 (Dec. 27, 2006), as amended, and most recently extended by 87 FR 65159 (Oct. 28, 2022).

[6] Operating Limitations at John F. Kennedy International Airport, 87 FR 65161 at 65162 (Oct. 28, 2022); Operating Limitations at New York LaGuardia Airport, 87 FR 65159 at 65160 (Oct. 28, 2022); 14 CFR 93.227(a).

[7] Operating Limitations at New York LaGuardia Airport, 87 FR 65159 at 65160 (Oct. 28, 2022); 14 CFR 93.227(a).

[8] Operating Limitations at John F. Kennedy International Airport, 87 FR 65161 at 65162 (Oct. 28, 2022).

[9] Operating Limitations at John F. Kennedy International Airport, 87 FR 65161 at 65163 (Oct. 28, 2022); Operating Limitations at New York LaGuardia Airport, 87 FR 65159 at 65160 (Oct. 28, 2022); 14 CFR 93.227(j).

[10] A4A's members are Alaska Airlines, Inc.; American Airlines Group, Inc.; Atlas Air, Inc.; Delta Air Lines, Inc.; FedEx Corp.; Hawaiian Airlines; JetBlue Airways Corp.; Southwest Airlines Co.; United Airlines Holdings, Inc.; and United Parcel Service Co. Air Canada is an associate member.

carrier slot limit. The FAA notes that carriers at DCA regularly engage in swapping slots for retiming purposes or in temporary leasing of slots and those options remain available for carriers to manage slot holdings at the airport.

In addition, the FAA is extending a limited, conditional waiver from minimum usage requirements at JFK and LGA and providing similar relief at EWR under the Level 2 process for departure slots or approved schedules between 2100 and 2200 used for nonstop service to DCA, as well as slots or approved schedules associated with a DCA departure between 0500 and 0659 used for nonstop service to those slot-controlled or schedule facilitated New York City area airports. Carriers may also choose to use those slots at JFK and LGA or the approved runway times at EWR for operations to other markets than DCA.

The FAA will treat as used the specific slots impacted by the construction for the period from March 31, 2024, through October 26, 2024. This provides some time before and after the currently planned runway closure dates to accommodate potential changes to the construction schedule and provides carriers that may need some relief on either side of the current anticipated construction dates to phase in or phase out current operations. The relief is subject to the following conditions:

1. The specific slots must be returned to the FAA at least four weeks prior to the date of the FAA-approved operation, by submission to *7-awa-slotadmin@faa.gov.*

2. Slots newly allocated after December 15, 2023, for initial use before October 26, 2024, are not eligible for relief.

3. Slots authorized at DCA by Department of Transportation or FAA exemptions are not eligible for relief.

4. At JFK, LGA, and EWR only departure slots or approved schedules between 2100 and 2200 used for nonstop service to DCA and slots or approved schedules associated with a DCA departure between 0500 and 0659 used for nonstop service to those slot-controlled or schedule facilitated New York City area airport are eligible for relief.

Issued in Washington, DC, on January 22, 2024.

Marc A. Nichols,

Chief Counsel.

Alyce Hood-Fleming,

Vice President, System Operations Services.

[FR Doc. 2024–01524 Filed 1–23–24; 11:15 am]

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DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Parts 734 and 746

[Docket No. 240119–0019]

RIN 0694–AJ48

Implementation of Additional Sanctions Against Russia and Belarus Under the Export Administration Regulations (EAR) and Refinements to Existing Controls

AGENCY: Bureau of Industry and Security, Department of Commerce.

ACTION: Final rule.

SUMMARY: In response to the Russian Federation's (Russia's) ongoing aggression against Ukraine and Belarus's complicity in the invasion, the Department of Commerce is strengthening its existing sanctions under the Export Administration Regulations (EAR) against Russia and Belarus, including by expanding the scope of the EAR's Russian and Belarusian Industry Sector Sanctions and making certain changes to the licensing requirements that apply to the occupied Crimea region of Ukraine as well. Additionally, this rule revises recent restrictions targeting Iran's supply of Unmanned Aerial Vehicles to Russia. This rule also refines certain existing export controls on Russia and Belarus. The Department of Commerce is taking these actions to enhance the effectiveness of its controls on these countries and to better align them with those implemented by U.S. allies and partners.

DATES: This rule is effective on January 23, 2024.

FOR FURTHER INFORMATION CONTACT: For general questions on this final rule, contact Eileen Albanese, Director, Office of National Security and Technology Transfer Controls, Bureau of Industry and Security, Department of Commerce, Phone: (202) 482–0092, Fax: (202) 482–482–3355, Email: *rpd2@bis.doc.gov.* For emails, include ''Russia, Belarus, and Iran December 2023 export control measures'' in the subject line.

SUPPLEMENTARY INFORMATION:

I. Background

In response to Russia's February 2022 further invasion of Ukraine, BIS imposed extensive sanctions on Russia under the Export Administration Regulations (15 CFR parts 730 through 774) (EAR) as part of the final rule ''Implementation of Sanctions Against Russia Under the Export Administration Regulations (EAR)'' (the Russia Sanctions Rule) (87 FR 12226, March 3, 2022). To address Belarus's complicity in the invasion, BIS imposed similar sanctions on Belarus under the EAR in a final rule, ''Implementation of Sanctions Against Belarus'' (''Belarus Sanctions Rule'') (87 FR 13048, March 6, 2022). During the last two years, BIS has published a number of additional final rules strengthening the export controls on Russia and Belarus, including measures undertaken in coordination with U.S. allies and partners.

Most recently, BIS strengthened its existing sanctions under the EAR against Russia and Belarus, including by expanding the scope of the EAR's Russian and Belarusian Industry Sector Sanctions and by expanding the foreign direct product rule that already applied to Russia and Belarus to apply as well to the Crimea region of Ukraine, which has been occupied by Russia since 2014 (88 FR 33422, May 22, 2023). Additionally, that rule revised restrictions implemented in a February 2023 rule, ''Export Control Measures Under the Export Administration Regulations (EAR) to Address Iranian Unmanned Aerial Vehicles (UAVs) and Their Use by the Russian Federation,'' targeting Iran's supply of Unmanned Aerial Vehicles (UAVs) to Russia and refined existing export controls on Russia and Belarus (Iran UAV rule) (88 FR 12150, February 27, 2023). The Department of Commerce took these actions to enhance the effectiveness of its controls on these countries and to better align them with those implemented by U.S. allies and partners.

Taken together, these actions under the EAR reflect the U.S. Government's position that Russia's invasion of Ukraine and Belarus's complicity in the invasion, flagrantly violate international law, are contrary to U.S. national security and foreign policy interests, and undermine global order, peace, and security.

The export control measures in this final rule build upon the policy objectives set forth in the earlier rules referenced above. The adoption of these measures, undertaken in part to better align U.S. controls with the stringent measures implemented by partners and allies, will enhance the effectiveness of the multilateral sanctions on Russia by further limiting Russia's access to items that enable its military capabilities and to sources of revenue that could support those capabilities. Additionally, the new or expanded controls specified in this rule target Belarus as part of the U.S. response to the country's complicity in

Russia's aggression, as well as Iran for its support of Russia.

II. Overview of New Controls

This rule revises the EAR to enhance and strengthen the existing sanctions against Russia and Belarus by expanding the scope of the Russian and Belarusian industry sector sanctions to better align them with the controls that have been implemented by U.S. allies and partners imposing substantially similar controls on Russia and Belarus, including a control added on Iran pursuant to the Iran UAV rule, that targeted Iran's supply of UAVs to Russia (88 FR 12150, February 27, 2023) (Iran UAVs rule). For similar policy reasons, this rule also refines other controls on Russia and Belarus that were imposed in response to Russia's February 2022 further invasion of Ukraine.

III. Amendments to the Export Administration Regulations (EAR)

This rule enhances and strengthens the sanctions that have been implemented on Russia, Belarus, the occupied Crimea region of Ukraine, and Iran under the EAR, as described under sections A and B below. The regulatory revisions described under *Section A. Imposition of new export controls on Russia, Belarus, and Iran, including changes to align controls with those imposed by U.S. allies and partners* include:

- Expansion of Russian and Belarusian Industry Sector Sanctions that apply to items listed in supplement no. 4 to part 746 to add additional items to align with controls imposed by U.S. partners and allies and to make other changes to render the EAR's controls stronger, more effective, and easier to understand;
- Expansion of items that require a license under § 746.7 when destined to Iran and under § 746.8 when destined to Russia or Belarus under supplement no. 7 to part 746 to add an additional item to align with controls imposed by U.S. partners and allies and to make other changes to render the EAR's controls stronger, more effective, and easier to understand; *and*
- Eliminating the lowest-level military and spacecraft-related items (*i.e.,* .y items) from being eligible for *de minimis* treatment when incorporated into foreign-made items for export from abroad or reexport to Russia or Belarus.

A. Imposition of New Export Controls on Russia, Belarus, and Iran, Including Changes To Align Controls With Those Imposed by U.S. Allies and Partners

This rule expands the scope of the Russian and Belarusian Industry Sector Sanctions (§ 746.5 of the EAR) by adding additional items to supplement no. 4 to part 746 that will require a license under § 746.5(a)(1)(ii), as described further below. This rule also adds an additional item to supplement no. 7 to part 746 that will require a license under § 746.7 when destined to Iran and under § 746.8 when destined to Russia or Belarus.

1. Expansion of Russian and Belarusian Industry Sector Sanctions by adding additional items to supplement no. 4 to part 746 consistent with the objective to undermine Russia's and Belarus's industrial bases and align the EAR controls further with those imposed by U.S. partners and allies.

This rule expands the list of items set forth in supplement no. 4 to part 746 (Russian and Belarusian Industry Sector Sanctions Pursuant to § 746.5(a)(1)(ii)). Specifically, this rule adds 94 additional Harmonized Tariff Schedule (HTS)-6 Code entries to supplement no. 4; consequently, these items will now require a license for export, reexport to, or transfer within Russia or Belarus under § 746.5(a)(1)(ii). Restrictions on these 94 groups of industrial items are intended to further undermine the Russian and Belarusian industrial bases and their ability to continue to support Russia's military aggression in Ukraine. The items added include a variety of industrial materials, items needed for manufacturing, and certain aircraft-related items. The complete list of 94 new HTS–6 Codes this rule adds to supplement no. 4 are identified in amendatory instruction 10.

In May 2023, BIS imposed controls on entire harmonized system chapters 84, 85, and 90 in supplement no. 4 to part 746 of the EAR. With this new rule, BIS will notably be controlling all of harmonized system chapter 88 as well. Chapter 88 is focused on aircraft, spacecraft, and parts thereof, and there is significant overlap between items in this chapter and items classified in Category 9 of the Commerce Control List (see, *e.g.,* Export Control Classification Number (ECCN) 9A991). However, BIS believes that adding controls to all of chapter 88 will more closely align U.S. controls with those of U.S. allies, who generally impose aviation controls on Russia through reference to Chapter 88. This will also ensure that additional related items not enumerated or otherwise specified on the Commerce Control List are controlled for export, reexport, or transfer (in-country) to or within Russia and Belarus. Through such comprehensive controls, BIS intends to cut further off Russia's access to items of potential military significance and expand the economic impact of controls that will deny Russia additional resources it needs to continue waging war. Consistent with the amendments made elsewhere by this rule, the proper order of review for destination-based controls specific to Russia and Belarus is to review § 746.8 before reviewing controls imposed by § 746.5. Furthermore, consistent with the Order of Review described in supplement no. 4 to part 774 of the EAR and § 734.3(b)(1)(i), defense articles on the United States Munitions List (USML) are subject to the exclusive jurisdiction of another agency and are thus not subject to the EAR. Accordingly, no USML defense articles are controlled under the EAR for export, reexport, or transfer (in-country) to or within Russia or Belarus based on § 746.5, no matter their tariff code classification. *See* the International Traffic in Arms Regulations (ITAR) (22 CFR parts 120 through 130) for controls for USML defense articles.

Items controlled through amendments made by this rule were identified based on a review of public and non-public information regarding which items Russia seeks to further its war against Ukraine, an evaluation of areas in which U.S. trade has continued to provide an economic benefit to Russia, and an assessment of how the United States could better align with its allies and partners to degrade Russia's war effort. BIS estimates these changes to supplement no. 4 to part 746 will result in an additional 25 license applications submitted to BIS annually.

2. Expansion of items that require a license under § 746.7 when destined to Iran and under § 746.8 when destined to Russia or Belarus under supplement no. 7 to part 746 to align with controls imposed by U.S. partners and allies and to make other changes to render the EAR's controls stronger, more effective, and easier to understand.

In supplement no. 7 to part 746 (Items That Require a License Under § 746.6 When Destined to the Temporarily Occupied Crimea region of Ukraine, Under § 746.7 When Destined to Iran, and Under § 746.8 When Destined to Russia or Belarus), this rule expands the list of items that require a license by adding one additional HTS–6 Code entry (852910) to supplement no. 7; consequently, items classified under this HTS–6 entry will now require a license for export or reexport to Iran under § 746.7(a)(1)(ii) and to Russia and Belarus under § 746.8(a)(2). The restrictions on these items are intended to further undermine Iran's ability to support the Russian and Belarusian industrial bases that have in turn provided support for Russia's military

aggression in Ukraine. The items that fall under this entry include a variety of antennas and antenna reflectors and parts thereof. BIS estimates this change to supplement no. 7 to part 746 will result in an additional five license applications submitted to BIS annually.

3. Prohibiting the use of de minimis for .y ''600 series'' and 9x515 items for Belarus and Russia.

This rule revises § 734.4 (*De minimis* U.S. content) to expand the scope of the paragraph (a)(6)(ii) restriction that specifies there is no *de minimis* level for foreign-made items that incorporate U.S.-origin 9x515 or ''600 series'' .y items when destined for a country listed in Country Group E:1 or E:2 of supplement no. 1 to part 740 of the EAR or for China. Specifically, this rule adds Belarus and Russia to this paragraph so that there is no *de minimis* level for U.S.-origin 9x515 or ''600 series'' .y items destined for Belarus or Russia. Adding Belarus and Russia to this restriction on the use of *de minimis* will bring additional foreign-made military and spacecraft items within the scope of the EAR and put additional pressure on Russia's military and defense industrial base, as well as make it more difficult for foreign suppliers to provide even low-level military and spacecraft items to Belarus and Russia. While the license requirements under § 746.8(a)(1) already apply to the export, reexport, or transfer (in-country) to or within Russia or Belarus of these low-level military and spacecraft items, eliminating the eligibility of these items for *de minimis* treatment makes the EAR's Russia and Belarus controls stronger, more far reaching, and more effective. BIS estimates this change to § 734.4 will result in an additional five license applications submitted to BIS annually.

B. Corrections and Clarifications to Existing Controls on Russia and Belarus

Some of the EAR's Russia and Belarus-related provisions discussed above in Section A with respect to the additional controls being imposed on Russia and Belarus are also discussed here because this rule makes corrections and clarifications with respect to those provisions. The regulatory revisions described under *Section B. Corrections and clarifications to existing controls on Russia and Belarus* include:

- Addition of exclusion from license requirements under § 746.6 for exports, reexports, and transfers (in-country) related to deployments by the Armed Forces of Ukraine to or within the temporarily occupied Crimea region of Ukraine and covered regions of Ukraine;
- Clarification that U.S.-origin controlled content that meets the criteria in new § 746.10(a)(3) is excluded from *de minimis* calculations when identifying controlled U.S.-origin content to harmonize with similar exclusions under §§ 746.5 and 746.8;
- Clarification regarding which EAR section takes precedence when determining licensing requirements that apply to items identified in supplements no. 2, 4, or 5 to part 746 that are also classified in an ECCN under §§ 746.5, 746.8, and 746.10;
- Clarification that fasteners are excluded from the scope of supplement nos. 2, 4, 5, and 7, but are subject to the license requirements under § 744.21 for Russia and Belarus, as well as any other part 744 license requirement that applies to all items subject to the EAR;
- Harmonization of License Exceptions available under §§ 746.5, 746.8, and 746.10, except as limited in the introductory text of the respective paragraph (c);
- Clarification that ''medicines'' are excluded from the scope of supplement no. 6 to part 746;
- Conforming change to adopt case-by-case license review policy for applications related to the safety of flight under §§ 746.5 and 746.10 to conform with § 746.8; *and*
- Clarification that the import restrictions on the temporary import of firearms from Ukraine do not apply to firearms that were previously exported, reexported, or transferred (in-country) under a BIS license that are being temporarily returned to the United States for repair and servicing.

BIS anticipates that the changes discussed in section B will not result in the submission of any additional license applications to BIS.

1. Addition of exclusion from license requirements for deployments by the Armed Forces of Ukraine to or within the temporarily occupied Crimea region of Ukraine and covered regions of Ukraine.

In § 746.6, this rule adds an exclusion from the license requirements for exports, reexports, and transfers (in-country) to or within the temporarily occupied Crimea region of Ukraine and covered regions of Ukraine related to deployments made by the Armed Forces of Ukraine. This exclusion is added to facilitate the operations of the Armed Forces of Ukraine (AFU or ZSU) within the temporarily occupied Crimea region of Ukraine and covered regions of Ukraine. This change is intended to make their deployments more efficient and effective.

2. Clarification that U.S.-origin controlled content that meets the criteria in new § 746.10(a)(3) is also excluded from de minimis calculations when identifying controlled U.S.-origin content to harmonize with similar exclusions under §§ 746.5 and 746.8.

In § 746.10 ('Luxury goods' sanctions against Russia and Belarus and Russian and Belarusian oligarchs and malign actors), this rule adds a new paragraph (a)(3) (Exclusion from scope of U.S.-origin controlled content under paragraphs (a)(1) and (2) of this section). Currently, certain U.S.-origin EAR99 items are not considered U.S. controlled content for purposes of the EAR's *de minimis* rules when incorporated into foreign-made items reexported or exported from abroad from countries listed in supplement no. 3 to part 746 of the EAR (Countries Excluded from Certain License Requirements of §§ 746.6, 746.7, and 746.8). These exclusions are currently found in §§ 746.5(a)(3) and 746.8(a)(5) of the EAR. This addition to § 746.10 clarifies that the same *de minimis* exclusion applies to the luxury goods items identified in supplement no. 5 to part 746 of the EAR.

As a conforming change to the clarification to § 746.10, this final rule revises supplement no. 2 to part 734 (Guidelines for *De Minimis* Rules) by adding an appropriate cross-reference to the new paragraph (a)(3).

3. Clarification regarding which section takes precedence for items identified in supplements no. 2, 4, or 5 to part 746 that are also classified in an ECCN.

This rule revises the introductory text in §§ 746.5 and 746.10 and makes a conforming change to § 746.8 to clarify how exporters should treat items that are controlled to Russia or Belarus by more than one section of the EAR. Specifically, in §§ 746.5 and 746.10, this rule revises paragraph (a) introductory text to establish an order of review for purposes of the license requirements, license exceptions, and license review policies that apply to any item that is both classified in an Export Control Classification Number (ECCN) on the Commerce Control List (CCL) in supplement no. 1 to part 774, and identified in supplement no. 4, 5, or 6 to part 746. BIS has imposed export controls on Russia and Belarus under three different sections of the EAR, sometimes using different classification methods. Under § 746.5, BIS largely imposes controls on Russia using HTS–6 code (see supplement no. 4 to part 746 of the EAR) or description (see supplement no. 6 to part 746 of the EAR). Under § 746.10, BIS imposes controls on Russia using HTS–6 codes (see supplement no. 5 to part 746 of the EAR). However, under § 746.8, BIS largely imposes controls using ECCNs.

Since nearly all items classified under ECCNs also can be classified under, for example, an HTS–6 code, there are some instances when an item may require a license under § 746.8 of the EAR, and under one of the other sections that imposes controls on Russia and Belarus.

In § 746.5, this rule adds two sentences to the end of the paragraph (a) introductory text to clarify two points. First, that a license is not required under § 746.5(a)(1)(ii) or (iii) for any item that is listed in supplement no. 4 or 6 and classified in an ECCN. Second, that exporters, reexporters, and transferors should consult § 746.8 for license requirements, license exceptions, and license review policies that apply to items classified under ECCNs. In this way, this amendment clarifies that controls in § 746.8 should be reviewed before controls in § 746.5. However, this rule does not make any changes to § 746.5(a)(1)(i), which imposes end-use specific controls on items described in supplement no. 2 to part 746. This is because that provision's end-use control applies more broadly than the destination scope in § 746.8, and that control continues to apply even for items listed in supplement no. 2 to part 746 and classified in an ECCN. For the same reason, in § 746.10, this rule revises the paragraph (a) introductory text to clarify two similar points as in § 746.5. First, that for purposes of § 746.10(a)(1), this rule specifies that a license is not required for any item that is listed in supplement no. 5 and classified in an ECCN. Second, this rule adds a sentence to direct exporters, reexporters, and transferors to see § 746.8 for license requirements, license exceptions, and license review policies for exports, reexports, and transfers to or within Russia or Belarus for items classified under ECCNs. This rule does not exclude any item that is listed in supplement no. 5 and is classified in an ECCN from the scope of the license requirements under § 746.10(a)(2) because this is a worldwide end-user license requirement, which has a much broader destination scope than § 746.8. Because of the narrowed scope of the ECCN controls under § 746.10, this rule removes the exclusion from the paragraph (a) introductory text for ECCNs 5A991, 5A992.c, and 5D992.c because it is no longer needed.

In § 746.8, this rule adds a sentence to the end of the paragraph (a) introductory text to specify that this section is used for determining license requirements for exports, reexports, and transfers to or within Russia or Belarus of any item that is listed in supplement nos. 4 through 6 and is classified in an ECCN. This rule also adds a second sentence to direct exporters, reexporters, and transferors to see §§ 746.5 and 746.10 for license requirements, license review policies, and license exceptions for exports, reexports, and transfers (in-country) to or within Russia or Belarus of any EAR99-designated item that is also listed in supplement nos. 4 through 6, and to also consult the end-use and end-user controls under part 744 of the EAR. This rule adds a third sentence to specify that this ECCN exclusion from the scope of the license requirements in §§ 746.5 and 746.10 is not applicable to the end-use license requirements imposed under § 746.5(a)(1)(i) or the end-user license requirements imposed under § 746.10(a)(2).

4. Clarification that fasteners are excluded from the scope of supplement nos. 2, 4, 5, and 7, but are subject to the license requirements under § 744.21 for Russia and Belarus, as well as any other part 744 license requirement that applies to all items subject to the EAR.

Supplement nos. 2, 4, 5, and 7 to part 746 include text that specifies that items described in each of these supplements include any modified or designed ''components,'' ''parts,'' ''accessories,'' and ''attachments'' therefor regardless of the HTS Code or HTS Description of the ''components,'' ''parts,'' ''accessories,'' and ''attachments,'' apart from any ''part'' or minor ''component'' that is a fastener (*e.g.,* screw, bolt, nut, nut plate, stud, insert, clip, rivet, pin), washer, spacer, insulator, grommet, bushing, spring, wire, or solder. BIS has received questions from the public asking for confirmation whether a fastener (*e.g.,* screw, bolt, nut, nut plate, stud, insert, clip, rivet, pin), washer, spacer, insulator, grommet, bushing, spring, wire, or solder, which are excluded from the scope of these three supplements and the license requirements under the respective §§ 746.5, 746.8, and 746.10, could therefore be exported, reexported, or transferred (in-country) to a Russian or Belarusian ''military end user'' or for a Russian or Belarusian ''military end use.'' A license would be required for such an export, reexport, or transfer (in-country) under § 744.21 (Restrictions on certain 'military end uses' or 'military end users'). In addition to clarifying this response to these questions, this rule revises the introductory text of supplement nos. 2, 4, and 5 to add two sentences to specify that although these fasteners (*e.g.,* screws, bolts, nuts, nut plates, studs, inserts, clips, rivets, pins, washers, spacers, insulators, grommets, bushing, springs, wires, and solders) are excluded from the scope of these respective supplements, the exporter, reexporter, or transferor must also review part 744 for the license requirements for Russia and Belarus that extend to all items ''subject to the EAR.''

5. Harmonization of License Exceptions available under §§ 746.5, 746.8 and 746.10, except as limited in the introductory text of the respective paragraph (c) paragraphs.

In §§ 746.5, 746.8, and 746.10, this rule revises paragraph (c) (License exceptions) for each of these three sections to adopt a common set of license exceptions that are available for the Russia and Belarus controls being implemented under part 746 of the EAR. In order to use any EAR License Exception, the export, reexport, or transfer (in-country) must not be otherwise restricted under § 740.2 and must meet all of the applicable terms and conditions of the referenced license exception. Because of the differences in scope between supplement nos. 2, 4, 5, and 6, as well as some of the differences referenced in §§ 746.5, 746.8, and 746.10, BIS has not allowed license exceptions for all Russia controls equally. In general, there have been good reasons for this; for example, there is no reason to add a license exception for a CCL item in a section of the EAR that does not apply to CCL items. However, BIS has found that in some cases, this approach to license exception eligibility has caused confusion, such as when a particular item is controlled under multiple provisions, only one of which is eligible for a particular license exception. This rule adopts a common set of license exceptions for all three sections. BIS notes that the change described under section B.3 of this rule (*i.e.,* on order of review) will also likely reduce issues related to the inconsistent language in Russia-related sections of part 746 significantly, but to ensure the issue is addressed as fully as possible, this rule also adopts this common list of EAR License Exceptions that will be available under these three sections.

This rules also places the License Exceptions in numerical order for ease of reference under each of the paragraph (c) references. This rule does not adopt a common set of License Exceptions for § 746.6 (on the Temporarily occupied Crimea region of Ukraine and covered regions of Ukraine) and does not expand the scope of license exceptions available to overcome the end-user license requirements under § 746.10(a)(2) because changes are not warranted for those sections. For ease of reference, BIS has set out a short table below with the License Exceptions in one column and then three additional columns for §§ 746.5, 746.8, and 746.10 indicating the availability of each License

Exception. For the column entries that indicate ''Available'' that section included this license exception eligibility prior to this rule. For any column that indicates ''Eligibility added,'' this rule is adding EAR License Exception eligibility for that respective section.

Table for Comparison of License Exception Eligibility Prior to This Rule and New License Exception Eligibility Added by This Rule

BIS cautions exporters, reexporters, and transferors that a license exception or portion of a license exception that is referenced as being available under §§ 746.5, 746.8, and 746.10 is only the first step in determining whether the referenced EAR license exception or portion of such license exception may actually be used. The exporter, reexporter, or transferor must then review § 740.2 to confirm that none of the general restrictions on the use of EAR License Exceptions apply, followed by a review to determine whether the contemplated transaction meets all of the applicable terms and conditions of the referenced license exception.

License exceptions	§ 746.5	§ 746.8	§ 746.10
License Exception temporary exports and reexports (TMP) for items for use by the news media as set forth in § 740.9(a)(9) of the EAR.	Eligibility added	Available	Eligibility added.
License Exception governments and international organizations (GOV) (§ 740.11(b)).	Available	Available	Eligibility added.
License Exception software updates (TSU) for software updates for civil end-users that are wholly-owned U.S. subsidiaries, branches, or sales offices, foreign subsidiaries, branches, or sales offices of U.S. companies that are joint ventures with other U.S. and companies, joint ventures of U.S. companies with companies headquartered in countries from Country Group A:5 and A:6 in supplement no. 1 to part 740 of the EAR countries, the wholly-owned subsidiaries, branches, or sales offices of companies headquartered in countries from Country Group A:5 and A:6 in supplement no. 1 to part 740, or joint ventures of companies headquartered in Country Group A:5 and A:6 with other companies headquartered in Country Groups A:5 and A:6 (§ 740.13(c) of the EAR).	Eligibility added	Available	Eligibility added.
License Exception baggage (BAG), excluding firearms and ammunition (§ 740.14, excluding paragraph (e), of the EAR).	Eligibility added	Available	Available.
License Exception aircraft, vessels and spacecraft (AVS), excluding any aircraft registered in, owned or controlled by, or under charter or lease by Russia or Belarus or a national of Russia or Belarus (§ 740.15(a) and (b) of the EAR).	Available	Available	Eligibility added. **Note:** A narrower subset of License Exception AVS was previously referenced, but for conformity with the other two sections this rule adopts the same License Exception AVS eligibility.
License Exception encryption commodities, software, and technology (ENC) for civil end-users that are wholly-owned U.S. subsidiaries, branches, or sales offices, foreign subsidiaries, branches, or sales offices of U.S. companies that are joint ventures with other U.S. companies, joint ventures of U.S. companies with companies headquartered in countries from Country Group A:5 and A:6 in supplement no. 1 to part 740 of the EAR countries, the wholly-owned subsidiaries, branches, or sales offices of companies headquartered in countries from Country Group A:5 and A:6 in supplement no. 1 to part 740, or joint ventures of companies headquartered in Country Group A:5 and A:6 with other companies headquartered in Country Groups A:5 and A:6 (§§ 740.13(c) and 740.17 of the EAR).	Eligibility added	Available	Eligibility added.
License Exception commodities and software authorized under License Exception consumer communications devices (CCD) (§ 740.19 of the EAR).	Available	Available	Available.

6. Clarification that ''medicines'' are excluded from the scope of supplement no. 6 to part 746.

In supplement no. 6 to part 746 (Russian and Belarusian Industry Sector Sanctions Pursuant to § 746.5(a)(1)(iii)), this rule adds one sentence to the end of the introductory text to the supplement to specify that this supplement does not include any item that meets the definition of ''medicine'' in § 772.1 of the EAR. Under the EAR, including Russia and Belarus sanctions, ''medicines'' means a ''drug'' as defined in section 201 of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 321). For purposes of the EAR, medicine includes EAR99 prescription and over the counter medicines for humans and animals. This rule specifies here that certain medicines, such as certain vaccines and immunotoxins, are on the Commerce Control List and are not affected by this change.

7. Conforming change to adopt case-by-case license review policy for applications related to safety of flight under §§ 746.5 and 746.10 to conform with § 746.8.

This rule also makes a conforming change to the licensing policy in §§ 746.5(b)(2) and 746.10(b) to add applications related to safety of flight to the case-by-case license review policy under these two sections for consistency with the licensing policy in § 746.8(b). This conforming change is made because certain EAR99 items used in aircraft that may be related to safety of flight are identified in supplement nos. 4 and 5 and license applications for these items should be reviewed consistently with the license review policy in § 746.8. Specifically, in § 746.5, this rule adds a new paragraph (b)(2)(i) to add applications related to safety of flight to the case-by-case license review policy and redesignates existing paragraphs (b)(2)(i) through (v) as paragraphs (b)(2)(ii) through (vi), respectively. In § 746.10, this rule revises paragraph (b) (Licensing policy) to add a new paragraph (b)(1) (Presumption of denial) and adds a new paragraph (b)(2) (Case-by-case) to specify the license applications that will be reviewed under a case-by-case licensing policy. This rule adds a new paragraph (b)(2)(i) for the case-by-case licensing policy for applications related to safety of flight and adds new paragraphs (b)(2)(ii) and (iii) for the previous case-by-case licensing policies that already applied under paragraph (b) of § 746.10.

BIS reminds applicants that BIS and the other license review agencies have used a narrow and restrictive interpretation of what items would qualify for the ''related to safety of flight'' category set forth in § 746.8(b)(2)(i). When BIS originally added the case-by-case license review policy to § 746.8(b), BIS provided guidance as part of BIS's outreach on the Russia sanctions, such as at BIS conferences and outreach seminars, to clarify that falling within this safety of flight-related category would have to satisfy a strict standard and would not apply broadly to all items used on an aircraft, but only to those items without which an aircraft would be unable to be safely operated. BIS does not intend that this category apply to aircraft that are in ''production,'' only those that require safety-critical items in an emergency. Since that time, BIS has consistently maintained this position in its review of applications as well as in outreach efforts.

8. Clarification that the import restriction on the temporary import of firearms from Ukraine does not apply to firearms that were previously exported, reexported, or transferred (in-country) under a BIS license that are being temporarily returned for repair and servicing.

BIS has authorized under BIS licenses the export and reexport to Ukraine of various firearms subject to the EAR since the Russian invasion of Ukraine. BIS has received questions from the public on whether it would be permissible to temporarily return those firearms to the United States for repair and servicing and to subsequently return those firearms under License Exception Replacement of Parts and Equipment (RPL) (§ 740.10(b)) or under a new BIS license if the capabilities of the firearms were changed as a result of such repair and servicing. BIS will be updating the ''Exports of Firearms and Related Items FAQs'' on the BIS website at *https://www.bis.doc.gov/index.php/documents/policy-guidance/2572-faqs-for-the-commerce-category-i-iii-firearms-rule-posted-on-bis-website-7-7-20/file* to address this question. Because of the importance of the answer to this question for Ukraine's continued ability to receive these items as part of its defense against Russia's war of aggression, and to inform as many exporters, reexporters, and transferors (in-country) as possible, BIS is also publishing this new firearms frequently asked question (FAQ) in the preamble of this rule. U.S. origin firearms originally provided to Ukraine pursuant to a BIS license may be temporarily imported pursuant to the EAR for repair or for replacement under License Exception RPL (15 CFR 740.10(b)(4)(i)) for return to Ukraine for use in its defense against Russia's war of aggression, because such activity is consistent with the EAR and U.S. foreign policy.

Q: My company exported 500 firearms classified under ECCN 0A501.a under a BIS license to Ukraine in 2022. These rifles are not specified under Annex A in supplement no. 4 to part 740. At this time, the consignee in Ukraine needs to temporarily return 50 of the rifles that they received under a BIS license to my company in the United States for repair and servicing. I have reviewed the general restrictions under 15 CFR 740.2 and the applicable terms and conditions under License Exception RPL under 15 CFR 740.10(b) and believe the export would meet the terms of using License Exception RPL, except I have a question on the applicability of the restriction under 15 CFR 740.10(b)(4)(i) that specifies that ''[t]he firearms were not shipped from or manufactured in Russia, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Turkmenistan, Ukraine, or Uzbekistan, except for any firearm model controlled by 0A501 that is specified under Annex A in Supplement No. 4 to this part.'' Does this restriction apply for temporarily importing firearms from Ukraine that were received in Ukraine under a BIS license or other U.S. Government authorization that will subsequently be authorized under License Exception RPL? Can you also confirm whether your answer to this License Exception RPL question would also apply to the same restriction that is also found under 15 CFR 740.9(b)(5)(ii) for exports of firearms and certain shotguns temporarily in the United States and in supplement no. 2 to part 748, paragraph (z) certification requirement for exports of firearms and certain shotguns temporarily in the United States?

A: The restrictions under 15 CFR 740.10(b)(4)(i) and 740.9(b)(5)(ii) and the certification requirement for BIS licenses under supplement no. 2 to part 748, paragraph (z) do not apply to temporary imports into the U.S. of any firearm that is subject to the EAR that was exported, reexported to, or transferred within Ukraine under a BIS authorization or a Department of State authorization under the 22 CFR 120.5(b) process.

Savings Clause

For the changes being made in this final rule, shipments of items removed from eligibility for a License Exception or export, reexport, or transfer (in-country) without a license (NLR) as a result of this regulatory action that were en route aboard a carrier to a port of export, reexport, or transfer (in-country), on January 23, 2024, pursuant to actual orders for export, reexport, or transfer (in-country) to or within a foreign destination, may proceed to that destination under the previous eligibility for a License Exception or export, reexport, or transfer (in-country) without a license (NLR), provided the export, reexport, or transfer (in-country) is completed no later than on February 22, 2024.

Export Control Reform Act of 2018

On August 13, 2018, the President signed into law the John S. McCain National Defense Authorization Act for Fiscal Year 2019, which included the Export Control Reform Act of 2018 (ECRA) (codified, as amended, at 50 U.S.C. 4801–4852). ECRA provides the legal basis for BIS's principal authorities and serves as the authority under which BIS issues this rule. To the extent it applies to certain activities that are the subject of this rule, the Trade Sanctions Reform and Export Enhancement Act of 2000 (TSRA) (codified, as amended, at 22 U.S.C. 7201–7211) also serves as authority for this rule.

Rulemaking Requirements

1. BIS has examined the impact of this rule as required by Executive Orders 12866, 13563, and 14094, which direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public, health, and safety effects, distributive impacts, and equity). This final rule has been determined to be not significant for purposes of Executive Order 12866.

2. Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number.

This rule involves the following OMB-approved collections of information subject to the PRA:

- 0694–0088, ''Multi-Purpose Application,'' which carries a burden hour estimate of 29.4 minutes for a manual or electronic submission;
- 0694–0096 ''Five Year Records Retention Period,'' which carries a burden hour estimate of less than 1 minute; and
- 0607–0152 ''Automated Export System (AES) Program,'' which carries a burden hour estimate of 3 minutes per electronic submission.

BIS estimates that these new controls on Russia, Belarus, and Iran under the EAR will result in an increase of 35 license applications submitted annually to BIS. However, the additional burden falls within the existing estimates currently associated with these control numbers. Additional information regarding these collections of information—including all background materials—can be found at *https://www.reginfo.gov/public/do/PRAMain* by using the search function to enter either the title of the collection or the OMB Control Number.

3. This rule does not contain policies with federalism implications as that term is defined in Executive Order 13132.

4. Pursuant to section 1762 of the Export Control Reform Act of 2018 (50 U.S.C. 4821) (ECRA), this action is exempt from the Administrative Procedure Act (APA) (5 U.S.C. 553) requirements for notice of proposed rulemaking, opportunity for public participation, and delay in effective date. While section 1762 of ECRA provides sufficient authority for such an exemption, this action is also independently exempt from these APA requirements because it involves a military or foreign affairs function of the United States (5 U.S.C. 553(a)(1)).

5. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by 5 U.S.C. 553, or by any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* are not applicable. Accordingly, no regulatory flexibility analysis is required, and none has been prepared.

List of Subjects

15 CFR Part 734

Administrative practice and procedure, Exports, Inventions and patents, Research, Science and technology.

15 CFR Part 746

Exports, Reporting and recordkeeping requirements.

For the reasons stated in the preamble, parts 734 and 746 of the Export Administration Regulations (15 CFR parts 730 through 774) are amended as follows:

PART 734—SCOPE OF THE EXPORT ADMINISTRATION REGULATIONS

■ 1. The authority citation for 15 CFR part 734 continues to read as follows:

Authority: 50 U.S.C. 4801–4852; 50 U.S.C. 4601 *et seq.;* 50 U.S.C. 1701 *et seq.;* E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13020, 61 FR 54079, 3 CFR, 1996 Comp., p. 219; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13637, 78 FR 16129, 3 CFR, 2014 Comp., p. 223; Notice of November 8, 2022, 87 FR 68015, 3 CFR, 2022 Comp., p. 563.

■ 2. Section 734.4 is amended by revising paragraph (a)(6)(ii) to read as follows:

§ 734.4 De minimis U.S. content.

(a) * * *

(6) * * *

(ii) There is no *de minimis* level for foreign-made items that incorporate U.S.-origin 9x515 or ''600 series'' .y items when destined for a country listed in Country Group E:1 or E:2 of supplement no. 1 to part 740 of the EAR or for Belarus, the People's Republic of China (PRC), or Russia.

* * * * *

■ 3. Supplement no. 2 to part 734 is amended by revising the third sentence of paragraph (a)(1) to read as follows:

Supplement No. 2 to Part 734—Guidelines for De Minimis Rules

(a) * * *

(1) * * * For purposes of identifying U.S.-origin controlled content, you should consult the Commerce Country Chart in supplement no. 1 to part 738 of the EAR and controls described in part 746 of the EAR (excluding U.S.-origin content that meets the criteria in § 746.5(a)(3), § 746.7(a)(1)(v), § 746.8(a)(5), or § 746.10(a)(3)). * * * * * * * *

PART 746—EMBARGOES AND OTHER SPECIAL CONTROLS

■ 4. The authority citation for 15 CFR part 746 continues to read as follows:

Authority: 50 U.S.C. 4801–4852; 50 U.S.C. 4601 *et seq.;* 50 U.S.C. 1701 *et seq.;* 22 U.S.C. 287c; Sec 1503, Pub. L. 108–11, 117 Stat. 559; 22 U.S.C. 2151 note; 22 U.S.C. 6004; 22 U.S.C. 7201 *et seq.;* 22 U.S.C. 7210; E.O. 12854, 58 FR 36587, 3 CFR, 1993 Comp., p. 614; E.O. 12918, 59 FR 28205, 3 CFR, 1994 Comp., p. 899; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13338, 69 FR 26751, 3 CFR, 2004 Comp., p 168; Presidential Determination 2003–23, 68 FR 26459, 3 CFR, 2004 Comp., p. 320; Presidential Determination 2007–7, 72 FR 1899, 3 CFR, 2006 Comp., p. 325; Notice of May 810, 2023, 88 FR 30211 (May 10, 2023).

■ 5. Section 746.5 is amended by:
■ a. Revising paragraph (a) introductory text;
■ b. Redesignating paragraphs (b)(2)(i) through (v) as paragraphs (b)(2)(ii) through (vi), respectively;
■ c. Adding a new paragraph (b)(2)(i); and
■ d. Revising paragraph (c).

The revisions and addition read as follows:

§ 746.5 Russian and Belarusian industry sector sanctions.

(a) *License requirements.* For purposes of paragraphs (a)(1)(i) through (iii) of this section, a license is not required for deemed exports and deemed reexports. For purposes of paragraphs (a)(1)(ii) and (iii) of this section, a license is not required for any item that is listed in supplement no. 4 or 6 to this part that is also classified in an Export Control Classification Number (ECCN) on the Commerce Control List (CCL) in supplement no. 1 to part 774 of the EAR. See § 746.8 for license requirements, license exceptions, and license review policies for exports, reexports, and transfers to or within Russia or Belarus for items classified in ECCNs.

* * * * *

(b) * * *

(2) * * *

(i) Applications related to safety of flight;

* * * * *

(c) *License exceptions.* No license exceptions may overcome the license requirements set forth in this section, except the license exceptions identified in paragraphs (c)(2) and (7) of this section.

(1) License Exception TMP for items for use by the news media as set forth in § 740.9(a)(9) of the EAR.

(2) License Exception GOV (§ 740.11(b) of the EAR).

(3) License Exception TSU for software updates for civil end-users that are wholly-owned U.S. subsidiaries, branches, or sales offices, foreign subsidiaries, branches, or sales offices of U.S. companies that are joint ventures with other U.S. and companies, joint ventures of U.S. companies with companies headquartered in countries from Country Group A:5 and A:6 in supplement no. 1 to part 740 of the EAR countries, the wholly-owned subsidiaries, branches, or sales offices of companies headquartered in countries from Country Group A:5 and A:6 in supplement no. 1 to part 740, or joint ventures of companies headquartered in Country Group A:5 and A:6 with other companies headquartered in Country Groups A:5 and A:6 (§ 740.13(c) of the EAR).

(4) License Exception BAG, excluding firearms and ammunition (§ 740.14, excluding paragraph (e), of the EAR).

(5) License Exception AVS, excluding any aircraft registered in, owned or controlled by, or under charter or lease by Russia or Belarus or a national of Russia or Belarus (§ 740.15(a) and (b) of the EAR).

(6) License Exception encryption commodities, software, and technology (ENC) for civil end-users that are wholly-owned U.S. subsidiaries, branches, or sales offices, foreign subsidiaries, branches, or sales offices of U.S. companies that are joint ventures with other U.S. companies, joint ventures of U.S. companies with companies headquartered in countries from Country Group A:5 and A:6 in supplement no. 1 to part 740 of the EAR countries, the wholly-owned subsidiaries, branches, or sales offices of companies headquartered in countries from Country Group A:5 and A:6 in supplement no. 1 to part 740, or joint ventures of companies headquartered in Country Group A:5 and A:6 with other companies headquartered in Country Groups A:5 and A:6 (§§ 740.13(c) and 740.17 of the EAR).

(7) License Exception CCD (§ 740.19 of the EAR).

■ 6. Section 746.6 is amended by adding paragraph (a)(5) to read as follows:

§ 746.6 Temporarily occupied Crimea region of Ukraine and covered regions of Ukraine.

(a) * * *

(5) *Exclusion for deployments by the Government of Ukraine to or within the temporarily occupied Crimea region of Ukraine or covered regions of Ukraine.* The license requirements of paragraph (a) of this section do not apply to exports, reexports, and transfers (in country) used in or for deployments by the Government of Ukraine to or within the temporarily occupied Crimea region of Ukraine or covered regions of Ukraine.

* * * * *

■ 7. Section 746.8 is amended by:

■ a. Adding three sentences to the end of paragraph (a) introductory text; and

■ b. Revising paragraph (c).

The additions and revision read as follows:

§ 746.8 Sanctions against Russia and Belarus.

(a) * * * This section is also used for determining license requirements for exports, reexports, and transfers to or within Russia or Belarus of any item that is listed in supplement nos. 4 through 6 to this part and is classified in an Export Control Classification Number (ECCN) on the Commerce Control List (CCL) in supplement no. 1 to part 774 of the EAR. See §§ 746.5 and 746.10 for license requirements, license review policies, and license exceptions for exports, reexports, and transfers (in-country) to or within Russia or Belarus of any EAR99-designated item that is also listed in supplement nos. 4 through 6 and the end-use and end-user controls under part 744 of the EAR. This ECCN exclusion from the scope of the license requirements from §§ 746.5 and 746.10 is not applicable to the end-use license requirements imposed under § 746.5(a)(1)(i) or the end-user license requirements imposed under § 746.10(a)(2).

* * * * *

(c) *License exceptions.* No license exceptions may overcome the license requirements in paragraph (a)(3) of this section, except as specified in the Entity List entry for a Footnote 3 entity on the Entity List in supplement no. 4 to part 744 of the EAR. No license exceptions may overcome the license requirements in paragraphs (a)(1) and (2) of this section except the license exceptions identified in paragraphs (c)(1) through (7) of this section.

(1) License Exception TMP for items for use by the news media as set forth in § 740.9(a)(9) of the EAR.

(2) License Exception GOV (§ 740.11(b) of the EAR).

(3) License Exception TSU for software updates for civil end-users that are wholly-owned U.S. subsidiaries, branches, or sales offices, foreign subsidiaries, branches, or sales offices of U.S. companies that are joint ventures with other U.S. and companies, joint ventures of U.S. companies with companies headquartered in countries from Country Group A:5 and A:6 in supplement no. 1 to part 740 of the EAR countries, the wholly-owned subsidiaries, branches, or sales offices of companies headquartered in countries from Country Group A:5 and A:6 in supplement no. 1 to part 740, or joint ventures of companies headquartered in Country Group A:5 and A:6 with other companies headquartered in Country Groups A:5 and A:6 (§ 740.13(c) of the EAR).

(4) License Exception BAG, excluding firearms and ammunition (§ 740.14, excluding paragraph (e), of the EAR).

(5) License Exception AVS, excluding any aircraft registered in, owned or controlled by, or under charter or lease by Russia or Belarus or a national of Russia or Belarus (§ 740.15(a) and (b) of the EAR).

(6) License Exception ENC for civil end-users that are wholly-owned U.S. subsidiaries, branches, or sales offices, foreign subsidiaries, branches, or sales offices of U.S. companies that are joint ventures with other U.S. companies, joint ventures of U.S. companies with companies headquartered in countries from Country Group A:5 and A:6 in supplement no. 1 to part 740 of the EAR countries, the wholly-owned subsidiaries, branches, or sales offices of companies headquartered in countries from Country Group A:5 and A:6 in supplement no. 1 to part 740, or joint ventures of companies headquartered in Country Group A:5 and A:6 with other companies headquartered in Country Groups A:5 and A:6 (§§ 740.13(c) and 740.17 of the EAR).

(7) License Exception CCD (§ 740.19 of the EAR).

■ 8. Section 746.10 is amended by:

■ a. Revising paragraph (a) introductory text;

■ b. Adding paragraph (a)(3); and

■ c. Revising paragraphs (b) and (c).

The revisions and additions read as follows:

§ 746.10 'Luxury goods' sanctions against Russia and Belarus and Russian and Belarusian oligarchs and malign actors.

(a) *License requirements.* For purposes of paragraph (a)(1) of this section, a license is not required for any item that is listed in supplement no. 5 to this part that is also classified in an Export Control Classification Number (ECCN) on the Commerce Control List (CCL) in supplement no. 1 to part 774 of the EAR. See § 746.8 for license requirements, license exceptions, and license review policies for exports, reexports, and transfers to or within Russia or Belarus for items classified in ECCNs.

* * * * *

(3) *Exclusion from scope of U.S.-origin controlled content under paragraphs (a)(1) and (2) of this section.* For purposes of determining U.S.-origin controlled content under supplement no. 2 to part 734 of the EAR when making a *de minimis* calculation for reexports and exports from abroad to Russia or Belarus, the license requirements in paragraphs (a)(1) and (2) of this section are not used to determine controlled U.S.-origin content in a foreign-made item, provided the criteria in paragraphs (a)(3)(i) and (ii) of this section are met:

(i) The U.S.-origin content is described in supplement no. 5 to this part and is not otherwise excluded from the applicable Scope column in supplement no. 3 to this part; and

(ii) The foreign made item will be reexported or exported from abroad from a country described in supplement no. 3 to this part.

* * * * *

(b) *Licensing policy*—(1) *Presumption of denial.* Applications for the export, reexport, or transfer (in-country) of any item that requires a license for pursuant to the requirements of this section will be reviewed with a policy of denial, except as specified in paragraph (b)(2) of this section.

(2) *Case-by-case.* The following types of license applications will be reviewed on a case-by-case basis to determine whether the transaction in question would benefit the Russian or Belarusian Government or defense sector:

(i) Applications related to safety of flight;

(ii) Applications involving items to meet humanitarian needs. The case-by-case license application review policy for items to meet humanitarian needs is included to address certain 'luxury goods' items that may be used in medical devices or situations in which a case-by-case analysis is needed to determine whether a license application should be approved to meet humanitarian needs while also taking into account the applicable broader U.S. national security and foreign policy concerns; and

(iii) Applications for the disposition of items by companies not headquartered in Country Group D:1, D:5, E:1 or E:2 in supplement no. 1 to part 740 of the EAR that are curtailing or closing all operations in Russia or Belarus; and replacement licenses for exports and reexports to and transfers within Russia and Belarus to add items described in Harmonized Tariff Schedule (HTS)-6 Codes that were added to the EAR after the effective validation date of the BIS license. *See* also § 750.7(c)(1)(xi) of the EAR for the divesture of items within Russia or Belarus or the transfer of items within Russia or Belarus for the purpose of reexporting from Russia or Belarus. For purposes of § 750.7(c)(1)(xi), divesture means the action or process of selling off subsidiary business interests or investments involving items subject to the EAR.

(c) *License exceptions.* No license exceptions may overcome the license requirements in paragraph (a)(1) of this section except the license exceptions identified in paragraphs (c)(1) through (3) of this section. No license exceptions may overcome the license requirements in paragraph (a)(2) of this section.

(1) License Exception TMP for items for use by the news media as set forth in § 740.9(a)(9) of the EAR.

(2) License Exception GOV (§ 740.11(b) of the EAR).

(3) License Exception TSU for software updates for civil end-users that are wholly-owned U.S. subsidiaries, branches, or sales offices, foreign subsidiaries, branches, or sales offices of U.S. companies that are joint ventures with other U.S. and companies, joint ventures of U.S. companies with companies headquartered in countries from Country Group A:5 and A:6 in supplement no. 1 to part 740 of the EAR countries, the wholly-owned subsidiaries, branches, or sales offices of companies headquartered in countries from Country Group A:5 and A:6 in supplement no. 1 to part 740, or joint ventures of companies headquartered in Country Group A:5 and A:6 with other companies headquartered in Country Groups A:5 and A:6 (§ 740.13(c) of the EAR).

(4) License Exception BAG, excluding firearms and ammunition (§ 740.14, excluding paragraph (e), of the EAR).

(5) License Exception AVS, excluding any aircraft registered in, owned or controlled by, or under charter or lease by Russia or Belarus or a national of Russia or Belarus (§ 740.15(a) and (b) of the EAR).

(6) License Exception ENC for civil end-users that are wholly-owned U.S. subsidiaries, branches, or sales offices, foreign subsidiaries, branches, or sales offices of U.S. companies that are joint ventures with other U.S. companies, joint ventures of U.S. companies with companies headquartered in countries from Country Group A:5 and A:6 in supplement no. 1 to part 740 of the EAR countries, the wholly-owned subsidiaries, branches, or sales offices of companies headquartered in countries from Country Group A:5 and A:6 in supplement no. 1 to part 740, or joint ventures of companies headquartered in Country Group A:5 and A:6 with other companies headquartered in Country Groups A:5 and A:6 (§§ 740.13(c) and 740.17 of the EAR).

(7) License Exception CCD (§ 740.19 of the EAR).

■ 9. Supplement no. 2 to part 746 is amended by adding a sentence following the second sentence of paragraph (a) to read as follows:

Supplement No. 2 to Part 746—Russian and Belarusian Industry Sector Sanction List Pursuant to § 746.5(a)(1)(i)

(a) * * * Although fasteners (*e.g.,* screws, bolts, nuts, nut plates, studs, inserts, clips, rivets, pins), washers, spacers, insulator, grommets, bushings, springs, wires, and solders are excluded from the scope of this supplement, see part 744 of the EAR for license requirements for Russia and Belarus that extend to all items ''subject to the EAR,'' *e.g.,* § 744.21 of the EAR and the Entity List license requirements, which in most cases extend to all items ''subject to the EAR.'' * * *

* * * * *

■ 10. Supplement no. 4 to part 746 is amended by:

■ a. Adding a sentence following the second sentence of paragraph (a); and

■ b. Adding in numerical order the following entries to the table: ''270111,'' ''270112,'' ''270119,'' ''270120,'' ''270210,'' ''270220,'' ''270300,'' ''270400,'' ''270720,'' ''270730,'' ''270820,'' ''271019,'' ''271210,'' ''271290,'' ''271500,'' ''280110,'' ''280200,'' ''280410,'' ''280430,'' ''280461,'' ''280470,'' ''280480,'' ''280511,'' ''280610,'' ''280620,'' ''281111,'' ''281129,'' ''281310,'' ''281410,'' ''281420,'' ''281512,'' ''281830,'' ''281990,'' ''282010,'' ''282731,'' ''282732,'' ''282735,'' ''282751,'' ''282890,'' ''282990,'' ''283220,'' ''283324,'' ''283330,'' ''283410,'' ''283630,'' ''283650,''

''283990,'' ''284030,'' ''284150,'' ''284180,'' ''284310,'' ''284329,'' ''284330,'' ''284910,'' ''320611,'' ''391220,'' ''401699,'' ''540249,'' ''591190,'' ''680520,'' ''681299,'' ''690919,'' ''701990,'' ''811241,'' ''811249,'' ''820411,'' ''820559,'' ''820790,'' ''880100,'' ''880211,'' ''880212,'' ''880220,'' ''880230,'' ''880240,'' ''880260,'' ''880400,'' ''880510,'' ''880521,'' ''880529,'' ''880610,'' ''880621,'' ''880622,'' ''880623,'' ''880624,'' ''880629,'' ''880691,'' ''880692,'' ''880693,'' ''880694,'' ''880699,'' ''880710,'' ''880720,'' ''880730,'' and ''880790''.

The additions read as follows:

Supplement No. 4 to Part 746—Russian and Belarusian Industry Sector Sanctions Pursuant to § 746.5(a)(1)(ii)

(a) * * * Although fasteners (*e.g.,* screws, bolts, nuts, nut plates, studs, inserts, clips, rivets, pins), washers, spacers, insulators, grommets, bushings, springs, wires, and solders are excluded from the scope of this supplement, see part 744 of the EAR for license requirements for Russia and Belarus that extend to all items ''subject to the EAR,'' *e.g.,* § 744.21 of the EAR and the Entity List license requirements, which in most cases extend to all items ''subject to the EAR.'' * * *

* * * * *

HTS–6 code	HTS description
*	* * * * * * *
270111	ANTHRACITE COAL, WHETHER OR NOT PULVERIZED, BUT NOT AGGLOMERATED.
270112	BITUMINOUS COAL, WHETHER OR NOT PULVERIZED, BUT NOT AGGLOMERATED.
270119	COAL, OTHER THAN ANTHRACITE OR BITUMINOUS, WHETHER OR NOT PULVERIZED, BUT NOT AGGLOMERATED.
270120	BRIQUETTES, OVOIDS AND SIMILAR SOLID FUELS FROM COAL.
270210	LIGNITE, NOT AGGLOMERATED, EXCLUDING JET.
270220	AGGLOMERATED LIGNITE, EXCLUDING JET.
270300	PEAT (INCLUDING PEAT LITTER) WHETHER OR NOT AGGLOMERATED.
270400	COKE AND SEMICOKE OF COAL, OF LIGNITE OR OF PEAT, WHETHER OR NOT AGGLOMERATED; RETORT CARBON.
270720	TOLUENE.
270730	XYLENES.
270820	PITCH COKE FROM COAL AND OTHER MINERAL TARS.
271019	PETROLEUM OILS, OILS FROM BITUMINOUS MINERALS (OTHER THAN CRUDE) & PRODUCTS CONTAINING BY WEIGHT GT=70% OR MORE OF THESE OILS, NOT BIODIESEL OR WASTE.
271210	PETROLEUM JELLY.
271290	MICROCRYSTALLINE PETROLEUM WAX, SLACK WAX, OZOKERITE, LIGNITE WAX, PEAT WAX, OTHER MINERAL WAXES, AND SIMILAR PRODUCTS, NESOI.
271500	BITUMINOUS MIXTURES BASED ON NATURAL ASPHALT, NATURAL BITUMEN, PETROLEUM BITUMEN, MINERAL TAR OR MINERAL TAR PITCH.
280110	CHLORINE.
280200	SULFUR, SUBLIMED OR PRECIPITATED; COLLODIAL SULFUR.
280410	HYDROGEN.
280430	NITROGEN.
280461	SILICON, CONTAINING BY WEIGHT NOT LESS THAN 99.99% OF SILICON.
280470	PHOSPHORUS.
280480	ARSENIC.
280511	SODIUM.
280610	HYDROGEN CHLORIDE (HYDROCHLORIC ACID).
280620	CHLOROSULFURIC ACID.
281111	HYDROGEN FLUORIDE (HYDROFLUORIC ACID).
281129	INORGANIC OXYGEN COMPOUNDS OF NONMETALS, NESOI.
281310	CARBON DISULFIDE.
281410	ANHYDROUS AMMONIA.
281420	AMMONIA IN AQUEOUS SOLUTION.
281512	SODIUM HYDROXIDE (CAUSTIC SODA), IN AQUEOUS SOLUTION (SODA LYE OR LIQUID SODA).
*	* * * * * * *
281830	ALUMINUM HYDROXIDE.
281990	CHROMIUM OXIDES AND HYDRIDES, EXCEPT CHROMIUM TRIOXIDE, NESOI.
282010	MANGANESE DIOXIDE.
*	* * * * * * *
282731	MAGNESIUM CHLORIDE.
282732	ALUMINUM CHLORIDE.
282735	NICKEL CHLORIDE.
282751	BROMIDES OF SODIUM OR OF POTASSIUM.
282890	HYPOCHLORITES, CHLORITES, AND HYPOBROMITES, NESOI.
*	* * * * * * *
282990	PERCHLORATES; BROMATES AND PERBROMATES; IODATES AND PERIODATES.
283220	SULFITES, EXCEPT SODIUM SULFITES, NESOI.
283324	NICKEL SULFATE.
283330	ALUMS.
283410	NITRITES.
*	* * * * * * *
283630	SODIUM HYDROGENCARBONATE (SODIUM BICARBONATE).
283650	CALCIUM CARBONATE.
283990	SILICATES; COMMERCIAL ALKALI METAL SILICATES, NESOI.

HTS–6 code	HTS description
284030	PEROXOBORATES (PERBORATES).
284150	CHROMATES AND DICHROMATES, NESOI; PEROXOCHROMATES.
284180	TUNGSTATES (WOLFRAMATES).
284310	COLLOIDAL PRECIOUS METALS.
284329	SILVER COMPOUNDS, EXCEPT SILVER NITRATE, NESOI.
284330	GOLD COMPOUNDS.
* * * * * * *	
284910	CARBIDES OF CALCIUM, WHETHER OR NOT CHEMICALLY DEFINED.
* * * * * * *	
320611	PIGMENTS AND PREPARATIONS CONTAINING 80% OR MORE BY WEIGHT OF TITANIUM DIOXIDE CALCULATED ON THE DRY MATTER.
* * * * * * *	
391220	CELLULOSE NITRATES (INCLUDING COLLODIONS), IN PRIMARY FORMS.
* * * * * * *	
401699	ARTICLES OF VULCANIZED RUBBER OTHER THAN HARD RUBBER, NESOI.
* * * * * * *	
540249	SYNTHETIC FILAMENT YARN EXCEPT SEWING THREAD, NOT FOR RETAIL SALE, SINGLE YARN NESOI, NOT OVER 50 TURNS PER METER IF TWISTED, OF YARNS NESOI.
* * * * * * *	
591190	TEXTILE PRODUCTS AND ARTICLES FOR TECHNICAL USES NESOI.
* * * * * * *	
680520	ABRASIVE POWDER OR GRAIN, ON A BASE OF PAPER OR PAPERBOARD ONLY.
* * * * * * *	
681299	ARTICLES OF FABRICATED ASBESTOS FIBERS AND ARTICLES OF ASBESTOS MIXTURES, NESOI.
* * * * * * *	
690919	CERAMIC WARES FOR LABORATORY, CHEMICAL OR OTHER TECHNICAL USES, OF OTHER THAN PORCELAIN OR CHINA, NESOI.
* * * * * * *	
701990	GLASS FIBERS AND ARTICLES THEREOF NESOI.
* * * * * * *	
811241	GALLIUM, HAFNIUM, INDIUM, NIOBIUM (COLUMBIUM), RHENIUM & ARTICLES OF THESE METALS, INCLUDING WASTE & SCRAP.
811249	GALLIUM, HAFNIUM, INDIUM, NIOBIUM (COLUMBIUM), RHENIUM AND THALLIUM AND ARTICLES THEREOF, NESOI.
* * * * * * *	
820411	SPANNERS AND WRENCHES, HAND-OPERATED, NON-ADJUSTABLE, AND PARTS THEREOF, OF BASE METAL.
820559	HANDTOOLS NESOI, AND PARTS THEREOF, OF BASE METAL.
* * * * * * *	
820790	INTERCHANGEABLE TOOLS NESOI, AND PARTS THEREOF, OF BASE METAL.
* * * * * * *	
880100	HANG GLIDERS, GLIDERS, BALLOONS, DIRIGIBLES AND OTHER NON-POWERED AIRCRAFT.
880211	HELICOPTERS OF AN UNLADEN WEIGHT NOT EXCEEDING 2,000 KG.
880212	HELICOPTERS OF AN UNLADEN WEIGHT EXCEEDING 2,000 KG.
880220	AIRPLANES AND OTHER AIRCRAFT NESOI, OF AN UNLADEN WEIGHT NOT EXCEEDING 2,000 KG.
880230	AIRPLANES AND OTHER AIRCRAFT NESOI, OF AN UNLADEN WEIGHT EXCEEDING 2,000 KG BUT NOT EXCEEDING 15,000 KG.
880240	AIRPLANES AND OTHER AIRCRAFT NESOI, OF AN UNLADEN WEIGHT EXCEEDING 15,000 KG.
880260	SPACECRAFT (INCLUDING SATELLITES) AND SUBORBITAL AND SPACECRAFT LAUNCH VEHICLES.
880400	PARACHUTES (INCLUDING DIRIGIBLE PARACHUTES AND PARAGLIDERS) AND ROTOCHUTES; PARTS THEREOF AND ACCESSORIES THERETO.
880510	AIRCRAFT LAUNCHING GEAR AND PARTS THEREOF; DECK-ARRESTORS OR SIMILAR GEAR AND PARTS THEREOF.
880521	AIR COMBAT SIMULATORS AND PARTS THEREOF.
880529	GROUND FLYING TRAINERS AND PARTS THEREOF, NESOI.
880610	UNMANNED AIRCRAFT DESIGNED FOR THE CARRIAGE OF PASSENGERS.
880621	UNMANNED AIRCRAFT FOR REMOTE-CONTROLLED FLIGHT ONLY, WITH MAXIMUM TAKE-OFF WEIGHT NOT MORE THAN 250 G.
880622	UNMANNED AIRCRAFT FOR REMOTE-CONTROLLED FLIGHT ONLY, WITH MAXIMUM TAKE-OFF WEIGHT MORE THAN 250 G BUT NOT MORE THAN 7 KG.
880623	UNMANNED AIRCRAFT FOR REMOTE-CONTROLLED FLIGHT ONLY, WITH MAXIMUM TAKE-OFF WEIGHT MORE THAN 7 KG BUT NOT MORE THAN 25 KG.

HTS–6 code	HTS description
880624	UNMANNED AIRCRAFT FOR REMOTE-CONTROLLED FLIGHT ONLY, WITH MAXIMUM TAKE-OFF WEIGHT MORE THAN 25 KG BUT NOT MORE THAN 150 KG.
880629	UNMANNED AIRCRAFT FOR REMOTE-CONTROLLED FLIGHT ONLY, WITH MAXIMUM TAKE-OFF WEIGHT MORE THAN 150 KG.
880691	UNMANNED AIRCRAFT WITH MAXIMUM TAKE-OFF WEIGHT NOT MORE THAN 250 G, NESOI.
880692	UNMANNED AIRCRAFT WITH MAXIMUM TAKE-OFF WEIGHT MORE THAN 250 G BUT NOT MORE THAN 7 KG, NESOI.
880693	UNMANNED AIRCRAFT WITH MAXIMUM TAKE-OFF WEIGHT MORE THAN 7 KG BUT NOT MORE THAN 25 KG, NESOI.
880694	UNMANNED AIRCRAFT WITH MAXIMUM TAKE-OFF WEIGHT MORE THAN 25 KG BUT NOT MORE THAN 150 KG, NESOI.
880699	UNMANNED AIRCRAFT WITH MAXIMUM TAKE-OFF WEIGHT MORE THAN 150 KG, NESOI.
880710	PROPELLERS AND ROTORS AND PARTS THEREOF, FOR BALLOONS, GLIDERS, OTHER AIRCRAFT AND SPACECRAFT, ETC.
880720	UNDERCARRIAGES AND PARTS THEREOF, FOR BALLOONS, GLIDERS, OTHER AIRCRAFT AND SPACECRAFT, ETC.
880730	PARTS OF AIRPLANES OR HELICOPTERS, NESOI.
880790	PARTS FOR USE IN CIVIL AIRCRAFT, BALLOONS, DIRIGIBLES, GLIDERS, HANG GLIDERS AND OTHER NON-POWERED AIRCRAFT, NESOI.
*	* * * * * * *

■ 11. Supplement no. 5 to part 746 is amended by adding a sentence following the second sentence of paragraph (a) to read as follows:

Supplement No. 5 to Part 746—'Luxury Goods' Sanctions for Russia and Belarus Pursuant to § 746.10(a)(1) and (2)

(a) * * * Although fasteners (*e.g.,* screws, bolts, nuts, nut plates, studs, inserts, clips, rivets, pins), washers, spacers, insulators, grommets, bushings, springs, wires, and solder are excluded from the scope of this supplement, see part 744 of the EAR for license requirements for Russia and Belarus that extend to all items ''subject to the EAR,'' *e.g.,* § 744.21 of the EAR and the Entity List license requirements, which in most cases extend to all items ''subject to the EAR.'' * * *

* * * * *

■ 12. Supplement no. 6 to part 746 is amended by adding a sentence to the end of the introductory text to the supplement to read as follows:

Supplement No. 6 to Part 746—Russian and Belarusian Industry Sector Sanctions Pursuant to § 746.5(a)(1)(iii)

* * * This supplement does not include any item that meets the definition of ''medicine'' in § 772.1 of the EAR.

* * * * *

■ 13. Supplement no. 7 to part 746 is amended by:

■ a. Adding a sentence following the second sentence of paragraph (a); and

■ b. Adding in the table, in numerical order, the entry ''852910.''

The additions read as follows:

Supplement No. 7 to Part 746—Items That Require a License Under § 746.6 When Destined to the Temporarily Occupied Crimea Region of Ukraine, Under § 746.7 When Destined to Iran, and Under § 746.8 When Destined to Russia or Belarus

* * * * *

(a) * * * Although fasteners (*e.g.,* screws, bolts, nuts, nut plates, studs, inserts, clips, rivets, pins), washers, spacers, insulators, grommets, bushings, springs, wires, and solder are excluded from the scope of this supplement, see part 744 of the EAR for license requirements for Russia and Belarus that extend to all items ''subject to the EAR,'' *e.g.,* § 744.21 of the EAR and the Entity List license requirements, which in most cases extend to all items ''subject to the EAR.'' * * *

* * * * *

HTS–6 codes	HTS description
*	* * * * * * *
852910	Antennas and antenna reflectors and parts thereof.
*	* * * * * * *

Thea D. Rozman Kendler,

Assistant Secretary for Export Administration.

[FR Doc. 2024–01408 Filed 1–23–24; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management

30 CFR Parts 550 and 553

[Docket ID: BOEM–2024–0002]

RIN 1010–AE19

2024 Civil Penalties Inflation Adjustments for Oil, Gas, and Sulfur Operations in the Outer Continental Shelf

AGENCY: Bureau of Ocean Energy Management, Interior.

ACTION: Final rule.

SUMMARY: This final rule implements the 2024 inflation adjustments to the maximum daily civil monetary penalties in the Bureau of Ocean Energy Management's (BOEM) regulations for violations of the Outer Continental Shelf Lands Act (OCSLA) and the Oil Pollution Act of 1990 (OPA). These inflation adjustments are made pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Improvements Act) and Office of Management and Budget (OMB)

memorandum M–24–07. The 2024 adjustment multiplier of 1.03241 accounts for 1 year of inflation from October 2022 through October 2023.

DATES: This rule is effective on January 25, 2024.

FOR FURTHER INFORMATION CONTACT: Questions regarding the inflation adjustment methodology or amount should be directed to Jayson Pollock, Economics Division, BOEM, at *jayson.pollock@boem.gov* or at (703) 787–1537. Questions regarding the timing of this adjustment or the applicability of the regulations should be directed to Karen Thundiyil, Chief, Office of Regulations, BOEM at *karen.thundiyil@boem.gov* or at (202) 742–0970.

SUPPLEMENTARY INFORMATION:

I. Legal Authority

OCSLA authorizes the Secretary of the Interior (the Secretary) to impose a daily civil monetary penalty for a violation of OCSLA or its implementing regulations, leases, permits, or orders. It also directs the Secretary to adjust the maximum penalty at least every 3 years to reflect any inflation increase in the Consumer Price Index. 43 U.S.C. 1350(b)(1). Similarly, OPA authorizes civil monetary penalties for failure to comply with OPA's financial responsibility provisions or its implementing regulations. 33 U.S.C. 2716a(a). OPA does not include a maximum daily civil penalty inflation adjustment provision, but such adjustment is authorized by the Improvements Act. *See* 28 U.S.C. 2461 note.

The Improvements Act [1] requires that Federal agencies publish inflation adjustments to their civil monetary penalties in the **Federal Register** not later than January 15 annually.[2] The purposes of these inflation adjustments are to maintain the deterrent effect of civil penalties and to further the policy goals of the underlying statutes. Federal Civil Penalties Inflation Adjustment Act of 1990, Public Law 101–410, sec. 2 (codified at 28 U.S.C. 2461 note).

II. Background and Purpose

BOEM implemented the 2023 inflation adjustment for its civil monetary penalties through a final rule entitled ''2023 Civil Penalties Inflation Adjustments for Oil, Gas, and Sulfur Operations in the Outer Continental Shelf,'' which was published in the **Federal Register** on February 15, 2023. 88 FR 9749. That rule accounted for inflation for the 12-month period between October 2021 and October 2022.

OMB memorandum M–24–07 [3] reiterates agency responsibilities under the Improvements Act. Such responsibilities include identifying applicable penalties and performing the annual adjustment; publishing revisions to regulations to implement the adjustment in the **Federal Register**; applying adjusted penalty dollar amounts; and performing agency oversight of inflation adjustments.

Pursuant to the Improvements Act and OMB M–24–07, this final rule implements BOEM's 2024 inflation adjustments to OCSLA and OPA maximum daily civil monetary penalties. A proposed rule is unnecessary as the Improvements Act expressly exempts annual civil penalty inflation adjustments from the Administrative Procedure Act's (APA) notice of proposed rulemaking, public comment, and standard effective date provisions. Improvements Act, Public Law 114–74, sec. 701(b)(1)(D); APA, 5 U.S.C. 553.[4]

On July 22, 2021, BOEM issued a final rule entitled ''Maximum Daily Civil Penalty Amounts for Violations of the Federal Oil and Gas Royalty Management Act'' (86 FR 38557). The rule amended BOEM's regulations that set maximum daily civil penalty (MDCP) amounts for violations of the Federal Oil and Gas Royalty Management Act (FOGRMA). The amendment cross-referenced BOEM's regulations to the Office of Natural Resources Revenue (ONRR) regulations that also set MDCP amounts for FOGRMA violations. This cross-reference ensured consistency between BOEM's FOGRMA MDCP amounts and ONRR's FOGRMA MDCP amounts. Because ONRR annually adjusts its MDCP for inflation, the cross-referencing rule also ensured consistent compliance with the Improvements Act and related OMB guidance while reducing possible confusion among regulated parties and unnecessary duplication of effort and costs to the Federal Government. The cross-reference to ONRR's regulations relieves BOEM of the necessity to adjust its FOGRMA MDCP.

III. Calculation of the 2024 Adjustments

In accordance with the Improvements Act, BOEM determined that OCSLA and OPA maximum daily civil monetary penalties require annual inflation adjustments. BOEM issues this final rule adjusting those penalty amounts for inflation through October 2023. The annual inflation adjustment is based on the percent change 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. Consistent with OMB M–24–07, the 2024 inflation adjustment multiplier can be calculated by dividing the October 2023 CPI–U by the October 2022 CPI–U. In this case, October 2023 CPI–U (307.671)/October 2022 CPI–U (298.012) = 1.03241.

[1] The Improvements Act amended the Federal Civil Penalties Inflation Adjustment Act of 1990. *See* Public Law 101–410 (codified at 28 U.S.C. 2461 note).

[2] Under the Improvements Act, Federal agencies were required to adjust their civil monetary penalties for inflation with an initial ''catch-up'' adjustment through an interim final rulemaking in 2016 and must make subsequent inflation adjustments not later than January 15 annually, beginning in 2017. Public Law 114–74, sec. 701(b)(1).

[3] OMB Memorandum M–24–07 ''Implementation of Penalty Inflation Adjustments for 2024, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015'' is available at *https://www.whitehouse.gov/wp-content/uploads/2023/12/M-24-07-Implementation-of-Penalty-Inflation-Adjustments-for-2024.pdf.*

[4] Specifically, Congress directed that agencies adjust civil monetary penalties ''notwithstanding section 553 of title 5, United States Code [Administrative Procedure Act (APA)],'' which generally requires prior notice of proposed rulemaking, opportunity for public comment on proposed rulemaking, and publication of a final rule at least 30 days before its effective date. Improvements Act, sec. 701(b)(1)(D); APA, 5 U.S.C. 553. OMB confirmed this interpretation of the Improvements Act. OMB M–24–07 at 3–4 (''This means that the public procedure the APA generally requires—notice, an opportunity for comment, and a delay in effective date—is not required for agencies to issue regulations implementing the annual adjustment.'').

For 2024, BOEM multiplied the current OCSLA maximum daily civil monetary penalty of $52,646 by the multiplier 1.03241, which equals $54,352.26. The Improvements Act requires that the resulting amount then be rounded to the nearest dollar. Accordingly, the 2024 adjusted OCSLA maximum daily civil monetary penalty is $54,352.

For 2024, BOEM multiplied the current OPA maximum daily civil penalty amount of $55,808 by the multiplier 1.03241, which equals $57,616.74. The Improvements Act requires that the resulting amount then be rounded to the nearest dollar. Accordingly, the 2024 adjusted OPA maximum daily civil monetary penalty is $57,617.

The adjusted penalty amounts take effect immediately upon publication of this rule. Under the Improvements Act, the adjusted amounts apply to civil penalties assessed after the date the increase takes effect, even if the associated violation predates the increase.

This table summarizes BOEM's 2024 maximum daily civil monetary penalties for each OCSLA and OPA violation:

CFR citation	Description of the penalty	Current maximum penalty	Multiplier	2024 Maximum penalty
30 CFR 550.1403 (OCSLA)	Failure to comply per day per violation	$52,646	1.03241	$54,352
30 CFR 553.51(a) (OPA)	Failure to comply per day per violation	55,808	1.03241	57,617

IV. Statutory and Executive Order Reviews

A. Statutes

1. National Environmental Policy Act

This rule does not constitute a major Federal action under the National Environmental Policy Act of 1969 (NEPA, 42 U.S.C. 4321 *et seq.*) because the civil penalty adjustments are required by law (*see* 40 CFR 1508.1(q)(1)(ii)). The Improvements Act requires BOEM to annually adjust the amounts of its civil penalties to account for inflation as measured by the Department of Labor's Consumer Price Index. Accordingly, BOEM has no discretion in the execution of the civil penalty adjustments reflected in this final rule. Because this rule is not a major Federal action, it is therefore not subject to the requirements of NEPA. Even if this were a discretionary action subject to NEPA, which it is not, a detailed statement under NEPA would not be required because, as a regulation of an administrative nature, this rule would be covered by a categorical exclusion (*see* 43 CFR 46.210(i)). Moreover, BOEM determined that the rule does not implicate any of the extraordinary circumstances listed in 43 CFR 46.215 that would prevent reliance on the categorical exclusion. Therefore, a detailed statement under NEPA is not required.

2. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA, 5 U.S.C. 601 *et seq.*) requires an agency to prepare a regulatory flexibility analysis for all rules unless the 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 is required to first publish a proposed rule. See 5 U.S.C. 603(a) and 604(a). The Improvements Act expressly exempts these annual inflation adjustments from the requirement to publish a proposed rule for notice and comment. Improvements Act, Public Law 114–74, sec. 701(b)(1)(D); OMB M–24–07 at 3–4. Thus, the RFA does not apply to this rulemaking.

3. Paperwork Reduction Act

This rule does not contain information collection requirements, and, therefore, a submission to OMB under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) is not required.

4. Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or Tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. The rule does not have a significant or unique effect on State, local, or Tribal Governments, or on the private sector. Therefore, a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

5. Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2). This rule:

(a) will not have an annual effect on the economy of $100 million or more;

(b) will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and

(c) will not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

6. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*) and OMB guidance,[5] this rule is not a major rule, as defined by that act. 5 U.S.C. 804(2).

B. Executive Orders (E.O.)

1. Governmental Actions and Interference With Constitutionally Protected Property Rights (E.O. 12630)

This rule does not effect a taking of private property or otherwise have takings implications under E.O. 12630. Therefore, a takings implication assessment is not required.

2. Regulatory Planning and Review (E.O. 12866); Modernizing Regulatory Review (E.O. 14094); Improving Regulation and Regulatory Review (E.O. 13563)

E.O. 12866, as amended by E.O. 14094, provides that the Office of Information and Regulatory Affairs (OIRA) will review all significant rules. OIRA determined that annual civil penalty inflation adjustment rules are not significant if they exclusively implement the annual inflation adjustment consistent with OMB guidance and have an annual impact of less than $200 million. *See* OMB Memorandum M–24–07 at 3. This rule meets those conditions and, thus, is not a significant rule.

E.O. 13563 reaffirms the principles of E.O. 12866, as amended by E.O. 14094, while calling for improvements in the Nation's regulatory system to reduce uncertainty and to promote predictability and for the use of the best, most innovative, and least burdensome tools for achieving regulatory ends. E.O. 13563 directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where

[5] *See* Office of Mgmt. & Budget, Exec. Office of the President, OMB M–19–14, Guidance on Compliance with the Congressional Review Act (2019), available at *https://www.whitehouse.gov/wp-content/uploads/2019/04/M-19-14.pdf;* OMB Memorandum M–24–07 at 3.

these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 further emphasizes that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. However, BOEM is using neither science nor public participation in this rulemaking. Congress directed agencies to adjust the maximum daily civil penalty amounts using a particular equation without public participation. BOEM does not have discretion to use any other factor in the adjustment. BOEM has developed this rule in a manner consistent with the requirements in E.O. 13563 to the extent relevant and feasible given the limited discretion provided agencies under the Improvements Act.

3. Civil Justice Reform (E.O. 12988)

This rule complies with the requirements of E.O. 12988. Specifically, this rule:

(a) meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and

(b) meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

4. Federalism (E.O. 13132)

Under the criteria in section 1 of E.O. 13132, this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement. This rule merely adjusts the dollar amount of civil monetary penalties that BOEM may impose on oil and gas lessees, grant holders, and operators on the Outer Continental Shelf and has no effects on any action of State or local governments. Therefore, a federalism summary impact statement is not required.

5. Consultation and Coordination With Indian Tribal Governments (E.O. 13175)

The Department of the Interior and BOEM strive to strengthen their government-to-government relationships with Indian Tribes through a commitment to consultation with Indian Tribes and recognition of the Tribes' right to self-governance and Tribal sovereignty. BOEM evaluated this rule under the Department of the Interior's consultation policy, Departmental Manual part 512 chapters 4 and 5, and E.O. 13175. BOEM determined that this rule has no substantial direct effects on federally recognized Indian Tribes or Alaska Native Claims Settlement Act Corporations and that consultation under existing Department and BOEM policies is not required.

6. Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use (E.O. 13211)

This rule is not a ''significant energy action'' under the definition of that term found in E.O. 13211. Therefore, a statement of energy effects is not required.

List of Subjects

30 CFR Part 550

Administrative practice and procedure, Continental shelf, Environmental impact statements, Environmental protection, Federal lands, Government contracts, Investigations, Mineral resources, Oil and gas exploration, Outer continental shelf, Penalties, Pipelines, Reporting and recordkeeping requirements, Rights-of-way, Sulfur.

30 CFR Part 553

Administrative practice and procedure, Continental shelf, Financial responsibility, Liability, Limit of liability, Oil and gas exploration, Oil pollution, Outer continental shelf, Penalties, Pipelines, Reporting and recordkeeping requirements, Rights-of-way, Surety bonds, Treasury securities.

This action by the Deputy Assistant Secretary is taken pursuant to an existing delegation of authority.

Steven H. Feldgus,

Principal Deputy Assistant Secretary, Land and Minerals Management.

For the reasons stated in the preamble, BOEM amends 30 CFR parts 550 and 553 as follows:

PART 550—OIL AND GAS AND SULPHUR OPERATIONS IN THE OUTER CONTINENTAL SHELF

■ 1. The authority citation for part 550 continues to read as follows:

Authority: 30 U.S.C. 1751; 31 U.S.C. 9701; 43 U.S.C. 1334.

■ 2. Revise § 550.1403 to read as follows:

§ 550.1403 What is the maximum civil penalty?

The maximum civil penalty is $54,352 per day per violation.

PART 553—OIL SPILL FINANCIAL RESPONSIBILITY FOR OFFSHORE FACILITIES

■ 3. The authority citation for part 553 is amended to read as follows:

Authority: 33 U.S.C. 2704, 2716; 2716a; E.O. 12777, as amended.

■ 4. Revise § 553.51(a) to read as follows:

§ 553.51 What are the penalties for not complying with this part?

(a) If you fail to comply with the financial responsibility requirements of OPA at 33 U.S.C. 2716 or with the requirements of this part, then you may be liable for a civil penalty of up to $57,617 per COF per day of violation (that is, each day a COF is operated without acceptable evidence of OSFR).

* * * * *

[FR Doc. 2024–01412 Filed 1–24–24; 8:45 am]

BILLING CODE 4340–98–P

DEPARTMENT OF THE TREASURY

Office of the Secretary of the Treasury

31 CFR Parts 16, 27, and 50

Inflation Adjustment of Civil Monetary Penalties

AGENCY: Departmental Offices Treasury.

ACTION: Final rule.

SUMMARY: The Department of the Treasury (''Department'' or ''Treasury'') publishes this final rule to adjust its civil monetary penalties (''CMPs'') for inflation as mandated by the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (collectively referred to herein as ''the Act'').

DATES: Effective January 25, 2024.

FOR FURTHER INFORMATION CONTACT: For information regarding the Terrorism Risk Insurance Program's CMPs, contact Richard Ifft, Lead Management and Senior Insurance Policy Analyst, Terrorism Risk Insurance Program, Federal Insurance Office, Room 1410 MT, Department of the Treasury, 1500 Pennsylvania Avenue NW, Washington, DC 20220, at (202) 622–2922 (not a toll-free number), or Sherry Rowlett, Program Analyst, Federal Insurance Office, at (202) 622–1890 (not a toll free number). Persons who have difficulty hearing or speaking may access these numbers via TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

For information regarding the Treasury-wide CMPs, contact Richard Dodson, Senior Counsel, General Law, Ethics, and Regulation, 202–622–9949.

SUPPLEMENTARY INFORMATION:

I. Background

In order to improve the effectiveness of CMPs and to maintain their deterrent

effect, the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. 2461 note (''the Inflation Adjustment Act''), as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Pub. L. 114–74) (''the 2015 Act''), requires Federal agencies to adjust each CMP provided by law within the jurisdiction of the agency. The 2015 Act requires agencies to adjust the level of CMPs with an initial ''catch-up'' adjustment through an interim final rulemaking and to make subsequent annual adjustments for inflation, without needing to provide notice and the opportunity for public comment required by 5 U.S.C. 553. This rule constitutes the Department's 2024 annual adjustment. The 2015 Act provides that any increase in a CMP shall apply to CMPs that are assessed after the date the increase takes effect, regardless of whether the underlying violation predated such increase.[1]

II. Method of Calculation

The method of calculating CMP adjustments applied in this final rule is required by the 2015 Act. Under the 2015 Act and the Office of Management and Budget guidance required by the 2015 Act, annual inflation adjustments subsequent to the initial catch-up adjustment are to be based on the percent change 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. As set forth in Office of Management and Budget (OMB) Memorandum M–24–07 of December 19, 2023, the adjustment multiplier for 2024 is 1.03241. Under the 2015 Act, any increase in CMP must be rounded to the nearest multiple of $1.

With regard to the CMPs assessed under 31 U.S.C. 3802(a), the penalty amount for 2023 ($9,399) is multiplied by 1.03241, resulting in a maximum penalty amount of $9,704 for 2024.

With regard to the CMPs assessed under 31 U.S.C. 333(c), the first penalty under this section was adjusted to $9,399 in 2023. This amount is multiplied by 1.03241, resulting in a penalty of $9,704 for 2024. The second penalty under this section was adjusted to $46,989 in 2023. Multiplying this amount by 1.03241, results in a penalty of $48,512 for 2024.

Finally, with regard to the CMP assessed under Section 104 of Title I, Public Law 107–297, as amended, the penalty amount for 2023 ($1,643,738) is multiplied by 1.03241 resulting in a penalty of $1,697,012 for 2024.

[1] However, the increased CMPs apply only with respect to underlying violations occurring after the date of enactment of the 2015 Act, *i.e.,* after November 2, 2015.

Procedural Matters

1. Administrative Procedure Act

The Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Section 701(b)) requires agencies to make annual adjustments for inflation to CMPs, without needing to provide notice and the opportunity for public comment and a delayed effective date required by 5 U.S.C. 553. Additionally, the methodology used for adjusting CMPs for inflation is provided by statute, with no discretion provided to agencies regarding the substance of the adjustments for inflation to CMPs. The Department is charged only with performing ministerial computations to determine the dollar amount of adjustments for inflation to CMPs. Accordingly, prior public notice, an opportunity for public comment, and a delayed effective date are not required for this rule.

2. Regulatory Flexibility Act

Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply.

3. Executive Order 12866

This rule is not a significant regulatory action as defined in section 3.f of Executive Order 12866, as amended.

4. Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1995, Public Law 104–13, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR part 1320, do not apply to this rule because there are no new or revised recordkeeping or reporting requirements.

List of Subjects

31 CFR Part 16

Administrative practice and procedure, Claims, Fraud, Penalties.

31 CFR Part 27

Administrative practice and procedure, Penalties.

31 CFR Part 50

Insurance, Terrorism.

Authority and Issuance

For the reasons set forth in the preamble, parts 16, 27, and 50 of title 31 of the Code of Federal Regulations are amended as follows:

PART 16—REGULATIONS IMPLEMENTING THE PROGRAM FRAUD CIVIL REMEDIES ACT OF 1986

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

Authority: 31 U.S.C. 3801–3812.

■ 2. Amend § 16.3 by revising paragraphs (a)(1)(iv) and (b)(1)(ii) to read as follows:

§ 16.3 Basis for civil penalties and assessments.

(a) * * *

(1) * * *

(iv) Is for payment for the provision of property or services which the person has not provided as claimed, shall be subject, in addition to any other remedy that may be prescribed by law, to a civil penalty of not more than $9,704 (2024) for each such claim.

* * * * *

(b) * * *

(1) * * *

(ii) Includes or is accompanied by an express certification or affirmation of the truthfulness and accuracy of the content of the statement, shall be subject, in addition to any other remedy that may be prescribed by law, to a civil penalty of not more than $9,704 (2024) for each such statement.

* * * * *

PART 27—CIVIL PENALTY ASSESSMENT FOR MISUSE OF DEPARTMENT OF THE TREASURY NAMES, SYMBOLS, ETC.

■ 3. The authority citation for part 27 continues to read as follows:

Authority: 31 U.S.C. 321, 333.

■ 4. Amend § 27.3 by revising paragraph (c) to read as follows:

§ 27.3 Assessment of civil penalties.

* * * * *

(c) *Civil penalty.* An assessing official may impose a civil penalty on any person who violates the provisions of paragraph (a) of this section. The amount of a civil monetary penalty shall not exceed $9,704 (2024) for each and every use of any material in violation of paragraph (a), except that such penalty shall not exceed $48,512 for each and every use if such use is in a broadcast or telecast.

* * * * *

PART 50—TERRORISM RISK INSURANCE PROGRAM

■ 5. The authority citation for part 50 is revised to read as follows:

Authority: 5 U.S.C. 301; 31 U.S.C. 321; Title I, Pub. L. 107–297, 116 Stat. 2322, as

amended by Pub. L. 109–144, 119 Stat. 2660, Pub. L. 110–160, 121 Stat. 1839, Pub. L. 114–1, 129 Stat. 3, and Pub. L. 116–94, 133 Stat. 2534 (15 U.S.C. 6701 note); Pub. L. 114–74, 129 Stat. 601, Title VII (28 U.S.C. 2461 note).

■ 6. Amend § 50.83 by revising paragraph (a) to read as follows:

§ 50.83 Adjustment of civil monetary penalty amount.

(a) *Inflation adjustment.* Any penalty under the Act and these regulations may not exceed the greater of $1,697,012 and, in the case of any failure to pay, charge, collect or remit amounts in accordance with the Act or these regulations such amount in dispute.

* * * * *

Kayla Arslanian,

Executive Secretary.

[FR Doc. 2024–01409 Filed 1–24–24; 8:45 am]

BILLING CODE 4810–AK–P

DEPARTMENT OF THE TREASURY

Financial Crimes Enforcement Network

31 CFR Part 1010

Financial Crimes Enforcement Network; Inflation Adjustment of Civil Monetary Penalties

AGENCY: Financial Crimes Enforcement Network (FinCEN), Treasury.

ACTION: Final rule.

SUMMARY: FinCEN is publishing this final rule to reflect inflation adjustments to its civil monetary penalties as mandated by the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended. This rule adjusts certain maximum civil monetary penalties within the jurisdiction of FinCEN to the amounts required by that Act.

DATES: Effective January 25, 2024.

FOR FURTHER INFORMATION CONTACT: The FinCEN Regulatory Support Section at 1–800–767–2825 or electronically at *frc@fincen.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

To improve the effectiveness of civil monetary penalties (CMPs) and to maintain their deterrent effect, the Federal Civil Penalties Inflation Adjustment Act of 1990 (the Act) [1] requires Federal agencies to adjust for inflation each CMP provided by law within the jurisdiction of the agency. Under the Act, agencies are required to adjust CMPs annually and publish these adjustments in the **Federal Register**.[2] Agencies are to make the adjustments without engaging in notice-and-comment rulemaking, and these adjustments may be immediately effective upon publication.[3] The Act provides that any increase in a CMP shall apply to CMPs that are assessed after the date the increase takes effect, regardless of whether the underlying violation predated such increase.[4] FinCEN publishes CMP inflation adjustments in its regulations at 31 CFR 1010.821.

II. Method of Calculation

The method of calculating CMP adjustments applied in this final rule is determined by the Act. Under the Act and Office of Management and Budget (OMB) guidance, annual inflation adjustments are to be based on the percent change 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.[5] As set forth in OMB Memorandum M–24–07 of December 19, 2023, the adjustment multiplier for 2024 is 1.03241. To complete the 2024 annual adjustment, each current FinCEN CMP is multiplied by the 2024 adjustment multiplier. Under the Act, any increase in CMP must be rounded to the nearest multiple of $1.[6]

This final rule lists adjusted CMPs associated with violations of the Corporate Transparency Act (CTA) [7] for the first time: specifically, the CMPs for beneficial ownership information (BOI) reporting violations (31 U.S.C. 5336(h)(3)(A)(i)) and for the unauthorized disclosure or use of BOI (31 U.S.C. 5336(h)(3)(B)(i)). These CMPs were established when the CTA became law in 2021, but were not published with prior adjustments because FinCEN's regulations implementing the CTA were then not yet effective.[8] Because these CTA-associated CMPs will be effective in 2024, they are listed in this adjustment. As these CMPs were established in 2021, they were also subject to the CMP adjustments imposed in 2022 and 2023, even though they were not published with those adjustments; accordingly, this rule applies the 2022, 2023, and 2024 adjustment multipliers to the CMPs established by the CTA.[9]

Procedural Matters

1. Administrative Procedure Act

Section 4(b) of the Act requires agencies, beginning in 2017, to make annual adjustments for inflation to CMPs notwithstanding the rulemaking requirements of 5 U.S.C. 553. Additionally, the methodology used for adjusting CMPs for inflation is provided by statute, with no discretion provided to agencies regarding the substance of the adjustments for inflation to CMPs. Accordingly, prior public notice and an opportunity for public comment and a delayed effective date are not required for this rule.

2. Regulatory Flexibility Act

Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply.

3. Executive Order 12866

This rule is not a significant regulatory action as defined in section

[1] Public Law 101–410, as amended in 2015 by section 701 of Public Law 114–74 and codified as a note to 28 U.S.C. 2461.

[2] Act, sec. 4(a).

[3] Act, sec. 4(b)(2) (adjustments are to be made ''notwithstanding'' the rulemaking requirements of 5 U.S.C. 553 of the Administrative Procedure Act).

[4] The increased CMPs, however, apply only with respect to underlying violations occurring after November 2, 2015, the date of enactment of the most recent amendment to the Act. Act, sec. 6.

[5] Act, sec. 5; OMB Mem. M–24–07 (Dec. 19, 2023).

[6] Act, sec. 5(a). FinCEN previously applied a catch-up adjustment for each penalty subject to the Act in 2016 based on the year and corresponding amount(s) for which the maximum penalty or range of minimum and maximum penalties was established or last adjusted, whichever is later. *See* Civil Monetary Penalty Adjustment and Table, 81 FR 42503, 42504 (June 30, 2016). Because the year of establishment or last adjustment is different for different penalties, penalties that were of the same size when each was promulgated can have different values today if promulgated at different times.

[7] The CTA is Title LXIV of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021, Public Law 116–283 (Jan. 1, 2021). The CTA is codified at 31 U.S.C. 5336.

[8] The CTA's BOI reporting requirements are implemented by regulations effective January 1, 2024, and the CTA's requirements regarding BOI access and safeguards are implemented by regulations effective February 20, 2024. *See* FinCEN, Beneficial Ownership Information Reporting Requirements, 87 FR 59498 (Sept. 30, 2022); FinCEN, Beneficial Ownership Information Access and Safeguards, 88 FR 88732 (Dec. 22, 2023).

[9] Under section 5(b)(2)(B) of the Act, the adjustment is to ''be applied to the amount of the civil monetary penalty as it was most recently established or adjusted under a provision of law other than [the Act].'' This amount is the penalty ''established (*i.e.,* as originally enacted by Congress), or last adjusted (*i.e.,* by Congress in statute, or by the agency through regulation), whichever is later, other than pursuant to [Act].'' OMB Mem. M–16–06 (Feb. 24, 2016). Because the CTA-associated CMPs were established by Congress in 2021 and have not since been adjusted by statute or regulation, they were subject to the 2022 and 2023 adjustments required by the Act, as well as the 2024 adjustment. FinCEN applied an adjustment multiplier of 1.06222 in 2022 and of 1.07745 in 2023 to CMPs. FinCEN, Inflation Adjustment of Civil Monetary Penalties, 87 FR 3433, 3434 (Jan. 24, 2022); FinCEN, Inflation Adjustment of Civil Monetary Penalties, 88 FR 3311, 3312 (Jan. 19, 2023).

3(f) of Executive Order 12866, as amended.

4. Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1995, Public Law 104–13, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR part 1320, do not apply to this rule because there are no new or revised recordkeeping or reporting requirements.

List of Subjects in 31 CFR Part 1010

Administrative practice and procedure, Aliens, Authority delegations (Government agencies), Banks and banking, Brokers, Business and industry, Commodity futures, Currency, Citizenship and naturalization, Electronic filing, Federal savings associations, Federal-States relations, Federally recognized tribes, Foreign persons, Holding companies, Indian law, Indians, Insurance companies, Investment advisers, Investment companies, Investigations, Law enforcement, Penalties, Reporting and recordkeeping requirements, Small businesses, Securities, Terrorism, Tribal government, Time.

Authority and Issuance

For the reasons set forth in the preamble, part 1010 of chapter X of title 31 of the Code of Federal Regulations is amended as follows:

PART 1010—GENERAL PROVISIONS

■ 1. The authority citation for part 1010 continues to read as follows:

Authority: 12 U.S.C. 1829b and 1951–1960; 31 U.S.C. 5311–5314 and 5316–5336; title III, sec. 314, Pub. L. 107–56, 115 Stat. 307; sec. 2006, Pub. L. 114–41, 129 Stat. 458–459; sec. 701, Pub. L. 114–74, 129 Stat. 599.

■ 2. Amend § 1010.821 by revising table 1 of § 1010.821 to read as follows:

§ 1010.821 Penalty adjustment and table.

* * * * *

TABLE 1 TO § 1010.821—PENALTY ADJUSTMENT TABLE

U.S. Code citation	Civil monetary penalty description	Penalties as last amended by statute	Maximum penalty amounts or range of minimum and maximum penalty amounts for penalties assessed on or after January 25, 2024
12 U.S.C. 1829b(j)	Relating to Recordkeeping Violations for Funds Transfers	$10,000	$25,597
12 U.S.C. 1955	Willful or Grossly Negligent Recordkeeping Violations	10,000	25,597
31 U.S.C. 5318(k)(3)(C)	Failure To Terminate Correspondent Relationship with Foreign Bank.	10,000	17,315
31 U.S.C. 5321(a)(1)	General Civil Penalty Provision for Willful Violations of Bank Secrecy Act Requirements.	25,000–100,000	69,733–278,937
31 U.S.C. 5321(a)(5)(B)(i)	Foreign Financial Agency Transaction—Non-Willful Violation of Transaction.	10,000	16,117
31 U.S.C. 5321(a)(5)(C)(i)(I)	Foreign Financial Agency Transaction—Willful Violation of Transaction.	100,000	161,166
31 U.S.C. 5321(a)(6)(A)	Negligent Violation by Financial Institution or Non-Financial Trade or Business.	500	1,394
31 U.S.C. 5321(a)(6)(B)	Pattern of Negligent Activity by Financial Institution or Non-Financial Trade or Business.	50,000	108,489
31 U.S.C. 5321(a)(7)	Violation of Certain Due Diligence Requirements, Prohibition on Correspondent Accounts for Shell Banks, and Special Measures.	1,000,000	1,731,383
31 U.S.C. 5330(e)	Civil Penalty for Failure To Register as Money Transmitting Business.	5,000	10,289
31 U.S.C. 5336(h)(3)(A)(i)	Civil Penalty for Beneficial Ownership Information Reporting Violation.	500	591
31 U.S.C. 5336(h)(3)(B)(i)	Civil Penalty for Unauthorized Disclosure or Use of Beneficial Ownership Information.	500	591

Andrea M. Gacki,

Director, Financial Crimes Enforcement Network.

[FR Doc. 2024–01420 Filed 1–24–24; 8:45 am]

BILLING CODE 4810–02–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2024–0013]

Security Zone; Lower Mississippi River, Mile Marker 94 to 97 Above Head of Passes, New Orleans, LA

AGENCY: Coast Guard, DHS.

ACTION: Notification of enforcement of regulation.

SUMMARY: The Coast Guard will enforce a security zone for all navigable waters within 400 yards of the Left Descending Bank (LDB) of the Lower Mississippi River (LMR) Mile Marker (MM) 94.4 to MM 95.1, Above Head of Passes (AHP), New Orleans, LA. This security zone is necessary to provide security and protection for visiting personnel during the events related to the Mardi Gras celebration. No person or vessel may enter this security zone unless authorized by the Captain of the Port New Orleans (COTP) or a designated representative.

DATES: The regulations in 33 CFR 165.846 will be enforced from noon on February 10, 2024, until 11:59 p.m. on February 13, 2024.

FOR FURTHER INFORMATION CONTACT: If you have questions about this rule, call or email Lieutenant Commander William A. Stewart, Sector New Orleans, U.S. Coast Guard; telephone 504–365–2246, email *William.A.Stewart@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce a security zone in 33 CFR 165.846 for events related to Mardi Gras Celebration from noon on February 10, 2024 until 11:59 p.m. on February 13, 2024. This action is being taken to provide security and protection for visiting personnel during the events related to the Mardi Gras celebration. The security zone will cover all navigable waters within 400 yards of the Left Descending Bank on the Lower Mississippi River from MM 94.4 to MM 95.1 AHP, New Orleans, LA. No person or vessel may enter this security zone unless authorized by the Captain of the Port New Orleans (COTP) or a designated representative. A designated representative means any Coast Guard commissioned, warrant, or petty officer of the U.S. Coast Guard assigned to units under the operational control of Sector New Orleans; to include a Federal, State, and/or local officer designated by or assisting the COTP in the enforcement of the security zone. To seek permission to enter, contact the COTP or a designated representative by telephone at (504) 365–2545 or VHF–FM Channel 16 or 67. Those in the security zone must transit at their slowest speed and comply with all lawful orders or directions given to them by the COTP or a designated representative.

In addition to this notification of enforcement in the **Federal Register**, the Coast Guard will inform the public of the enforcement period of this security zone through Broadcast Notices to Mariners (BNMs) and Marine Safety Information Bulletin (MSIB).

Dated: January 18, 2024.

K.K. Denning,

Captain, U.S. Coast Guard, Captain of the Port Sector New Orleans.

[FR Doc. 2024–01417 Filed 1–24–24; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2024–0012]

Safety Zone; Fireworks Displays Within the Fifth Coast Guard District; The Wharf DC, Washington, DC

AGENCY: Coast Guard, DHS.

ACTION: Notification of enforcement of regulation.

SUMMARY: The Coast Guard will enforce a safety zone for a fireworks display at ''The Wharf DC'' in Washington, DC, on February 10, 2024, or if necessary due to inclement weather, on February 17, 2024, to provide for the safety of life on navigable waterways during this event. Our regulation, ''Safety Zones; Fireworks Displays within the Fifth Coast Guard District,'' identifies its precise location. During the enforcement period, vessels may not enter, remain in, or transit through the safety zone unless authorized to do so by the COTP or his representative, and vessels in the vicinity must comply with directions from the Patrol Commander or any Official Patrol displaying a Coast Guard ensign.

DATES: The regulation in 33 CFR 165.506 will be enforced for the location identified in line no. 1 of table 2 to 33 CFR 165.506(h)(2) from 6 p.m. until 7:30 p.m. on February 10, 2024, or, if necessary due to inclement weather, from 6 p.m. until 7:30 p.m. on February 17, 2024.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notification of enforcement, call or email MST2 Hollie Givens, Sector Maryland-NCR, Waterways Management Division, U.S. Coast Guard: telephone 410–57–2596, email *MDNCRMarineEvents@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the safety zone regulation for a fireworks display at ''The Wharf DC'' from 6 p.m. to 7:30 p.m. on February 10, 2024, or if necessary due to inclement weather, from 6 p.m. until 7:30 p.m. on February 17, 2024. This action is being taken to provide for the safety of life on navigable waterways during this event. Our regulation for Fireworks Displays within the Fifth Coast Guard District, § 165.506, specifies the location of the safety zone for the fireworks show, which encompasses portions of the Washington Channel in the Upper Potomac River. As reflected in § 165.23, vessels in the vicinity of the safety zone, may not enter, remain in, or transit through the safety zone during the enforcement period unless authorized to do so by the COTP or his representative, and they must comply with directions from the Patrol Commander or any Official Patrol displaying a Coast Guard ensign.

In addition to this notification of enforcement in the **Federal Register**, the Coast Guard plans to provide notification of this enforcement period via the Local Notice to Mariners and marine information broadcasts.

Dated: January 22, 2024.

David E. O'Connell,

Captain, U.S. Coast Guard, Captain of the Port, Sector Maryland-National Capital Region.

[FR Doc. 2024–01478 Filed 1–24–24; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2024–0019]

Safety Zone; Riverwalk Marketplace/ Lundi Gras Fireworks Display, New Orleans, LA

AGENCY: Coast Guard, DHS.

ACTION: Notification of enforcement of regulation.

SUMMARY: The Coast Guard will enforce a temporary safety zone for the Riverwalk Marketplace/Lundi Gras fireworks display on February 12, 2024, to provide for the safety of life on navigable waterways during this event. Our regulation for annual fireworks displays and other events in the Eighth Coast Guard District requiring safety zones identifies the regulated area for this event on the navigable waters of the Lower Mississippi River between Mile Marker (MM) 93 and MM 96, New Orleans, LA. During the enforcement period, entry into this zone is prohibited unless authorized by the Captain of the Port or a designated representative. All persons and vessels shall comply with the instructions of the Captain of the Port or designated representative. Designated representatives include commissioned, warrant, and petty officers of the U.S. Coast Guard.

DATES: The regulation in 33 Code of Federal Regulations, 33 CFR 165.801, table 5, line 1, will be enforced from 6 p.m. through 7 p.m. on February 12, 2024.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notification of enforcement, call or email Lieutenant Commander William Stewart, Sector New Orleans, U.S. Coast Guard; telephone 504–365–2246, email *William.A.Stewart@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce a temporary safety zone in 33 CFR 165.801, table 5, line 1, for the Riverwalk Marketplace/Lundi Gras fireworks display event from 6 p.m. through 7 p.m. on February 12, 2024. This action is being taken to provide for the safety of life on navigable waterways during this event. Our regulation for annual fireworks displays and other events in the Eighth Coast Guard District requiring safety zones, § 165.801, identifies the regulated area for the Riverwalk Marketplace/Lundi Gras fireworks display on the navigable waters of the Lower Mississippi River between Mile Marker (MM) 93 and MM 96, New Orleans, LA. During the enforcement period, as reflected in § 165.801(a) through (c), entry into this zone is prohibited unless authorized by the Captain of the Port or a designated representative. All persons and vessels shall comply with the instructions of the Captain of the Port or designated representative. Designated representatives include commissioned, warrant, and petty officers of the U.S. Coast Guard.

In addition to this notification of enforcement in the **Federal Register**, the Coast Guard plans to provide notification of this enforcement period via Marine Safety Information Bulletin and Broadcast Notice to Mariners.

Dated: January 18, 2024.

K.K. Denning,

Captain, U.S. Coast Guard, Captain of the Port Sector New Orleans.

[FR Doc. 2024–01418 Filed 1–24–24; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2024–0072]

Safety Zone; Fireworks Displays Within the Fifth Coast Guard District; The Wharf, Washington, DC

AGENCY: Coast Guard, Department of Homeland Security (DHS).

ACTION: Notification of enforcement of regulation.

SUMMARY: The Coast Guard will enforce a safety zone for a fireworks display at ''The Wharf DC,'' in Washington, DC, on March 23, 2024 or, if necessary, due to inclement weather, on March 24, 2024, to provide for the safety of life on navigable waterways during this event. Our regulation, ''Safety Zones; Fireworks Displays within the Fifth Coast Guard District,'' identifies the precise location. During the enforcement period, vessels may not enter, remain in, or transit through the safety zone unless authorized to do so by the COTP or his representative, and vessels in the vicinity must comply with directions from the Patrol Commander or any Official Patrol displaying a Coast Guard ensign.

DATES: The regulation in 33 CFR 165.506 will be enforced for the location identified in line no. 1 of table 2 to 33 CFR 165.506(h)(2) from 8 p.m. until 9:30 p.m. on March 23, 2024, or if necessary due to inclement weather, from 8 p.m. until 9:30 p.m. on March 24, 2024.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notification of enforcement, call or email MST2 Hollie Givens, Sector Maryland-NCR, Waterways Management Division, U.S. Coast Guard: telephone 410–576–2596, email *MDNCRMarineEvents@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the safety zone regulation for a fireworks display at The Wharf DC from 8 p.m. to 9:30 p.m. on March 23, 2024 or, if necessary due to inclement weather, from 8 p.m. until 9:30 p.m. on March 24, 2024. This action is being taken to provide for the safety of life on navigable waterways during this event. Our regulation, ''Safety Zones; Fireworks Displays within the Fifth Coast Guard District,'' § 165.506, specifies the location of the safety zone for the fireworks show, which encompasses portions of the Washington Channel in the Upper Potomac River. As reflected in 33 CFR 165.23, vessels in the vicinity of the safety zone may not enter, remain in, or transit through the safety zone during the enforcement period unless authorized to do so by the COTP or his representative, and they must comply with directions from the Patrol Commander or any Official Patrol displaying a Coast Guard ensign.

In addition to this notification of enforcement in the **Federal Register**, the Coast Guard plans to provide notification of this enforcement period via the Local Notice to Mariners and marine information broadcasts.

Dated: January 22, 2024.

David E. O'Connell,

Captain, U.S. Coast Guard, Captain of the Port, Sector Maryland-National Capital Region.

[FR Doc. 2024–01431 Filed 1–24–24; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2023–0987]

RIN 1625–AA00

Safety Zone; Ports of Los Angeles and Long Beach, San Pedro Bay, CA

AGENCY: Coast Guard, Department of Homeland Security (DHS).

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary moving safety zone around the M/V ZHEN HUA 36 while it transits to the Port Long Beach, CA, to Long Beach Container Terminal (LBCT), Pier 22, then through the Port of Los Angeles to Everport, Pier LA 227. This safety zone is necessary to protect personnel, vessels, and the marine environment from potential hazards associated with oversized cargo transfer operations of three quay cranes, which will extend more than 200 feet out from the transiting vessels. Entry of persons or vessels into this safety zone is prohibited unless specifically authorized by the Captain of the Port (COTP) Los Angeles–Long Beach, or their designated representative.

DATES: This rule is effective without actual notice from January 25, 2024 through February 2, 2024. For the purposes of enforcement, actual notice will be used from January 23, 2024, until January 25, 2024.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2023–0987 in the search box and click ''Search.'' Next, in the Document Type column, select ''Supporting & Related Material.''

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or LCDR Kevin Kinsella, Waterways Management, U.S. Coast Guard Sector Los Angeles–Long Beach; telephone (310) 357–1603, email *D11-SMB-SectorLALB-WWM@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

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because the COTP was notified of the impending arrival of the M/V ZHEN HUA 36 less than 30 days in advance and immediate action is needed to respond to the potential safety hazards associated with the transfer of large quay cranes within the Ports of Los Angeles and Long Beach. It is impracticable to publish an NPRM because we must establish this safety zone by January 23, 2024.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be contrary to the public interest because immediate action is needed to ensure the safety of persons, vessels, and the marine environment in the vicinity of the M/V ZHEN HUA 36 while conducting oversized cargo transfer operations at LBCT, Pier 22, and Everport, Pier LA 227, within the Port of Long Beach and Port of Los Angeles.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034. The COTP Los Angeles–Long Beach has determined that potential hazards associated with the movement of large-scale quay crane transfer operations will be a safety concern for anyone within a 500-foot radius of the M/V ZHEN HUA 36 during its transit to LBCT, Pier 22, and Everport, Pier LA 227, while the vessel is within the Port of Los Angeles or Port of Long Beach and the waters inside the Federal breakwaters bounding San Pedro Bay or on the waters within three nautical miles seaward of the Federal breakwaters, respectively. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone while the vessel offloads gantry cranes in the Port of Los Angeles and Port of Long Beach.

IV. Discussion of the Rule

This rule establishes a safety zone from January 23, 2024, through February 2, 2024, during the transit of the M/V ZEN HUA 36. While the M/V ZHEN HUA 36 is within the Port of Los Angeles or Port of Long Beach and the waters inside the Federal breakwaters bounding San Pedro Bay or on the waters within three nautical miles seaward of the Federal breakwaters, respectively, the safety zone will encompass the navigable waters around and under the vessel, from surface to bottom, within a circle formed by connecting all points 500 feet out from the vessel. The safety zone is needed to protect personnel, mariners, and vessels from hazards associated with ship-to shore gantry crane arms which will extend more than 200 feet out from the transiting vessel. The duration of the zone is intended to protect personnel, vessels, and the marine environment in these navigable waters while the transfer operations are active.

No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. Sector Los Angeles–Long Beach may be contacted on VHF–FM Channel 16 or (310) 521–3801. The marine public will be notified of the safety zone via Broadcast Notice to Mariners.

V. Regulatory Analyses

We developed this 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 rule has not been designated a ''significant regulatory action,'' under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the size, location, duration, and time-of-year of the safety zone. This rule impacts an area of 500 feet surrounding a cargo vessel while at LBCT, Pier 22, for 6 days, and Everport, Pier LA 227, for 3 days during the months of January and February 2024. This safety zone impacts a 500-foot radius area of the Port of Los Angeles and Port of Long Beach and the waters inside the Federal breakwaters bounding San Pedro Bay or on the waters within three nautical miles seaward of the Federal breakwaters, respectively for a limited duration. While the safety zone encompasses a 9-day period to account for uncertain transit delays of the M/V ZHEN HUA 36, the safety zone will only be enforced for the duration of the vessel's inbound transit, and transit from LBCT, Pier 22, to Everport, Pier LA 227. Each transit is expected to last less than 24 hours, and that period will be announced via Broadcast Notice to Mariners. Vessel traffic will be able to safely transit around this safety zone, which will impact a small, designated area of the San Pedro Bay, Long Beach and Los Angeles, CA.

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 rule will 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 V.A. above, this rule will not have a significant economic impact on any vessel owner or operator.

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 rule. If the 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.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business

Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule will 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 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 rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does 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.

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 rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this 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 determined 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 rule involves a safety zone encompassing an area extending 500 feet out from a cargo vessel in vicinity of Long Beach Container Terminal and Everport and will last only during transit. It is 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 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.

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.

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 amends 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.T11–0987 to read as follows:

§ 165.T11–0153 Safety Zone; Port of Los Angeles and Long Beach, San Pedro Bay, CA.

(a) *Location.* The following area is a safety zone: all navigable waters of the Port of Los Angeles and Port of Long Beach, from surface to bottom, within a circle formed by connecting all points 500 feet out from the vessel, M/V ZHEN HUA 36, during the vessel's transit within the Port of Los Angeles and Port of Long Beach and the waters inside the Federal breakwaters bounding San Pedro Bay or on the waters within three nautical miles seaward of the Federal breakwaters, respectively.

(b) *Definitions.* As used in this section, *Designated representative* means a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel designated by or assisting the Captain of the Port Los Angeles–Long Beach (COTP) in the enforcement of the safety zone.

(c) *Regulations.*

(1) Under the general safety zone regulations in subpart C of this part, you may not enter the safety zone described in paragraph (a) of this section unless authorized by the COTP or the COTP's designated representative.

(2) To seek permission to enter, contact the COTP or the COTP's representative by hailing Coast Guard Sector Los Angeles–Long Beach on VHF–FM Channel 16 or calling at (310) 521–3801. Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(d) *Enforcement period.* This temporary safety zone will be enforced from January 23, 2024, through February 2, 2024, during the M/V ZHEN HUA 36's inbound transit and transit between Long Beach Container Terminal, Pier 22, to Everport, Pier LA 227, or as announced via Broadcast Notice to Mariners.

(e) *Informational broadcasts.* The COTP or a designated representative will inform the public of the enforcement date and times for this safety zone via Local Notices to Mariners.

S.L. Crecy,

Captain, U.S. Coast Guard, Acting Captain of the Port, Los Angeles–Long Beach.

[FR Doc. 2024–01499 Filed 1–24–24; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2024–0010]

RIN 1625–AA00

Safety Zone; Ohio River Mile Markers 2.5–3, Brunot Island, PA

AGENCY: Coast Guard, Department of Homeland Security (DHS).

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is proposing to establish a temporary safety zone for the Ohio River several days in January and February 2024 at mile marker 2.5 to mile marker 3 from 8 a.m. through 6 p.m. each day. This action is necessary

to provide for the safety of life on the navigable waters during a helicopter operation to install aerial transverse wirelines. This rule prohibits persons and vessels from being in the safety zone unless authorized by the Captain of the Port Pittsburgh (COTP) or a designated representative.

DATES: This rule is effective without actual notice from January 25, 2024 through February 4, 2024. For the purposes of enforcement, actual notice will be used from January 22, 2024, until January 25, 2024. The regulations in this rule will be enforced daily from 8 a.m. through 6 p.m. on the following dates: January 22, 2024, through January 26, 2024, and January 29, 2024, through February 4, 2024.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2024–0010 in the search box and click ''Search.'' Next, in the Document Type column, select ''Supporting & Related Material.''

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email LTJG Eyobe Mills, Marine Safety Unit Pittsburgh, U.S. Coast Guard; telephone 412–221–0807, email *Eyobe.D.Mills@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

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)(B)). This statutory provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable and contrary to the public interest. This safety zone must be established by January 22, 2024, to provide for the safety of life on the navigable waters during a helicopter operation, and we lack sufficient time to provide a reasonable comment period and then consider those comments before issuing this rule. The NPRM process would delay the establishment of the safety zone until after the date of the helicopter operation. Vessels inside of the safety zone have the potential of getting hit by derby from the helicopter.

Additionally, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be impracticable and contrary to the public interest because action is needed by January 22, 2024, to ensure the safety of the of life on the navigable waters during a helicopter operation.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034. The Captain of the Port Pittsburgh (COTP) has determined that potential hazards associated with a helicopter operation on January 22, 2024, through January 26, 2024, and January 29, 2024, through February 4, 2024, will be a safety concern for anyone on the Ohio River from 8 a.m. to 6 p.m. at mile markers 2.5 to mile marker 3. The purpose of this rule is to ensure safety of the participant, vessels, and the navigable waters in the safety zone before, during, and after the scheduled event.

IV. Discussion of the Rule

This rule establishes a temporary safety zone that will be enforced each day from 8 a.m. until 6 p.m. on January 22 through January 26 and January 29 through February 4, 2024. The safety zone will cover all navigable waters on the back channel of the Brunot Island on the Ohio River from mile markers 2.5 to mile marker 3. The duration of the zone is intended to protect personnel, vessels, and the marine environment in the navigable waters during an installation of aerial transverse wirelines using a helicopter.

No vessel or person is permitted to enter the safety zone without obtaining permission from the COTP or a designated representative of the COTP. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard (USCG) assigned to units under the operational control of the COTP. To seek permission to enter, contact the COTP or a designated representative via VHF–FM channel 16, or through Marine Safety Unit Pittsburgh at 412–221–0807. Persons and vessels permitted to enter the safety zone must comply with all lawful orders or directions issued by the COTP or designated representative. The COTP or a designated representative will inform the public of the effective period for the safety zone as well as any changes in the dates and times of enforcement through Local Notice to Mariners (LNMs), Broadcast Notices to Mariners (BNMs), and/or Marine Safety Information Bulletins (MSIBs), as appropriate.

V. Regulatory Analyses

We developed this 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 rule has not been designated a ''significant regulatory action,'' under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on size, location, and duration of the temporary safety zone. This safety zone only impacts a 0.5-mile stretch on the Ohio River for 10 hours each day from January 22 through January 26 and January 29 through February 4, 2024. Moreover, the Coast Guard will issue Local Notice to Mariners and Broadcast Notice to Mariners via VHF–FM marine channel 16 about the zone and the rule allows vessels to seek permission from the COTP to transit the zone.

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 rule will 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 V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

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 rule. If the 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.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule will 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 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 rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does 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.

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 rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this 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 determined 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 rule involves a temporary safety zone lasting 10 hours each day from January 22 through January 26 and January 29 through February 4, 2024, on the Ohio River. It is 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 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.

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.

List of Subjects in 33 CFR Part 165

Marine Safety, Navigation (water), Reporting, recordkeeping requirements, and Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 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.T08–0010 to read as follows:

§ 165.T08–0010 Safety Zone Ohio River, Brunot Island, PA.

(a) *Location.* The following area is a temporary safety zone: On the Ohio River from mile marker 2.5 to mile marker 3.

(b) *Definitions.* As used in this section, *designated representative* means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port Pittsburgh (COTP) in the enforcement of the safety zone. Designated representative includes safety boat provided by the event organizers.

(c) *Regulations.* (1) Under the general safety zone regulations in subpart C of this part, you may not enter the safety zone described in paragraph (a) of this section unless authorized by the COTP or the COTP's designated representative.

(2) To seek permission to enter, contact the COTP or the COTP's representative on Channel 16 or at 412–670–7288. To seek permission, concerned traffic may reach contact the event organizers on channel 13 or at (860) 573–6646. Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(d) *Enforcement period.* This section will be enforced each day from 8 a.m. through 6 p.m. from January 22, 2024, through January 26, 2024, and January 29, 2024, through February 4, 2024. The temporary safety zone will be enforced during the 10-hour helicopter operation on those dates.

Eric J. Velez,

Commander, U.S. Coast Guard, Captain of the Port, MSU Pittsburgh.

[FR Doc. 2024–01450 Filed 1–24–24; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2024–0108]

RIN 1625–AA00

Safety Zone; Choctawhatchee Bay, FL

AGENCY: Coast Guard, Department of Homeland Security (DHS).

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for certain navigable waters of the

Choctawhatchee Bay where unexploded ordnances were discovered and a moving safety zone around vessels relocating any unexploded ordnance from Choctawhatchee Bay to the Gulf of Mexico. The safety zone is needed to protect mariners from the hazards associated with unexploded ordnance clearance operations. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port (COTP), Sector Mobile, or a designated representative.

DATES: This rule is effective without actual notice from January 25, 2024, through 11:59 p.m. on February 28, 2024. For the purposes of enforcement, actual notice will be used from 1 p.m. on January 21, 2024, until January 25, 2024.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2024–0108 in the search box and click ''Search.'' Next, in the Document Type column, select ''Supporting & Related Material.''

FOR FURTHER INFORMATION CONTACT: If you have questions about this rule, call or email LT Lawrence Schad, Waterways Management Division, U.S. Coast Guard; telephone 251–382–8653, email *Sectormobilewaterways@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
GICW Gulf Intracoastal Waterway
USACE U.S. Army Corps of Engineers

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule under authority in 5 U.S.C. 553(b)(B). This statutory provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' The Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable and contrary to public interest to delay the effective date of this rule. Immediate action is needed to protect people and property on the waterway from potential hazards associated with unexploded ordnance operations on the waterway and enhance public and maritime safety. The Coast Guard was unable to publish an NPRM due to the short time period between the discovery of the unexploded ordnances and the need for the Coast Guard to enforce a safety zone around unexploded ordnance clearance operations. The unexploded ordnances were discovered by the U.S. Army Corps of Engineers (USACE) on January 19, 2024. Specifically, two separate ordnances were discovered. The operations include detonating one of the ordnances where it is located and moving the other ordnance to an undetermined location in the Gulf of Mexico where the Coast Guard intends to establish a new permanent zone as needed. Furthermore, delaying the effective date would be contrary to the safety zone's intended objectives of enhancing maritime safety and security while ensuring protection of people and property on the navigable waterway.

Also, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be impracticable because immediate action to restrict vessel traffic is needed to protect life and property and mitigate potential maritime hazards involved with unexploded ordnance operations.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034. The COTP has determined that a safety zone is necessary for the protection of persons and vessels from potential hazards associated with unexploded ordnance operations.

IV. Discussion of the Rule

This rule establishes a safety zone on certain navigable waters of the Choctawhatchee Bay within a 900 yard radius of approximate position 30°25′52.57314″ N, 86°35′08.49867″ W, and a moving safety zone within a 900 yard radius from any vessel involved with relocating the unexploded ordnance upon leaving the area where the ordnance was discovered until it is safely positioned in the disposal location. Enforcement of this safety zone is from 1 p.m. on January 21, 2024, until 11:59 p.m. on February 28, 2024. The duration of the zone is intended to protect personnel, vessels, and ensure maritime safety and security in these navigable waters during unexploded ordnance clearing operations. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative.

V. Regulatory Analyses

We developed this 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 rule 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, this rule has not been reviewed by the Office of Management and Budget (OMB). This regulatory action determination is based on the size, location, duration, and time-of-day of the safety zone. This safety zone would be enforced for approximately six weeks and prohibit vessel movement on a portion of the Choctawhatchee Bay and a moving safety zone around relocating unexploded ordnances from the Choctawhatchee Bay to the Gulf of Mexico. Moreover, the Coast Guard would issue a Broadcast Notice to Mariners via VHF–FM marine channel 16 about the zone, and the rule would allow vessels to seek permission to enter the zone.

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 rule will 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 V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

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 rule. If the 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.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule will 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 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 rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does 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.

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 rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this 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 determined 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 rule involves a safety zone lasting six weeks that will prohibit entry on a portion of the Choctawhatchee Bay and a moving safety zone around a vessel involved in relocating any unexploded ordnance from the Choctawhatchee Bay to the Gulf of Mexico. It is categorically excluded from further review under paragraph L60(d) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A 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.

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.

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 amends 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.T08–0108 to read as follows:

§ 165.T08–0108 Safety Zone; Choctawhatchee Bay, FL.

(a) *Location.* The following area is a safety zone: All navigable waters of the Choctawhatchee Bay within a 900 yard radius of approximate position 30°25′52.57314″ N, 86°35′08.49867″ W, and a moving safety zone 900 yards around any vessel involved with relocating the unexploded ordnance upon leaving the area where the ordnance was discovered until it is safely positioned in the disposal location.

(b) *Definitions.* As used in this section, *designated representative* means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Sector Mobile Captain of the Port (COTP) in the enforcement of the safety zone.

(c) *Regulations.* (1) Under the general safety zone regulations in subpart D of this part, you may not enter the safety zone described in paragraph (a) of this section unless authorized by the COTP or the COTP's designated representative. No person may anchor, dredge, or trawl in the safety zone unless authorized by the COTP or the COTP's designated representative.

(2) To seek permission to enter, contact the COTP or the COTP's designated representative on VHF–CH 16. Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(d) *Enforcement period.* This section will be enforced from 1 p.m. on January 21, 2024, through 11:59 p.m. on February 28, 2024. The enforcement period will be announced via marine broadcast, local notice to mariners, or by an on-scene oral notice as appropriate.

Dated: January 21, 2024.

U.S. Mullins,

Captain, U.S. Coast Guard, Captain of the Port Sector Mobile.

[FR Doc. 2024–01497 Filed 1–24–24; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF EDUCATION

34 CFR Parts 36 and 668

RIN 1801–AA25

Adjustment of Civil Monetary Penalties for Inflation

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Department of Education (Department) issues these final

regulations to adjust the Department's civil monetary penalties (CMPs) for inflation. This adjustment is required by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (2015 Act), which amended the Federal Civil Penalties Inflation Adjustment Act of 1990 (Inflation Adjustment Act). These final regulations provide the 2024 annual inflation adjustments being made to the penalty amounts in the Department's final regulations published in the **Federal Register** on January 30, 2023 (2023 final rule).

DATES: These regulations are effective January 25, 2024. The adjusted CMPs established by these regulations are applicable only to civil penalties assessed after January 25, 2024, whose associated violations occurred after November 2, 2015.

FOR FURTHER INFORMATION CONTACT: Rhondalyn Primes, U.S. Department of Education, Office of the General Counsel, 400 Maryland Avenue SW, room 6C150, Washington, DC 20202–2241. Telephone: (202) 453–6444. Email: *rhondalyn.primes@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:

Background

A CMP is defined in the Inflation Adjustment Act (28 U.S.C. 2461 note) as any penalty, fine, or other 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 provides for the regular evaluation of CMPs to ensure that they continue to maintain their deterrent value. The Inflation Adjustment Act required that each agency issue regulations to adjust its CMPs beginning in 1996 and at least every four years thereafter. The Department published its most recent cost adjustment to its CMPs in the **Federal Register** on January 30, 2023 (88 FR 5784), and those adjustments became effective on the date of publication.

The 2015 Act (section 701 of Pub. L. 114–74) amended the Inflation Adjustment Act to improve the effectiveness of CMPs and to maintain their deterrent effect.

The 2015 Act requires agencies to: (1) adjust the level of CMPs with an initial ''catch-up'' adjustment through an interim final rule (IFR); and (2) make subsequent annual adjustments for inflation. Catch-up adjustments are based on the percentage change between the Consumer Price Index for all Urban Consumers (CPI–U) for the month of October in the year the penalty was last adjusted by a statute other than the Inflation Adjustment Act, and the October 2015 CPI–U. Annual inflation adjustments are based on the percentage change between the October CPI–U preceding the date of each statutory adjustment, and the prior year's October CPI–U.[1] The Department published an IFR with the initial ''catch-up'' penalty adjustment amounts on August 1, 2016 (81 FR 50321).

In these final regulations, based on the CPI–U for the month of October 2023, not seasonally adjusted, we are annually adjusting each CMP amount by a multiplier for 2024 of 1.03241, as directed by the Office of Management and Budget (OMB) Memorandum No. M–24–07 issued on December 19, 2023.

The Department's Civil Monetary Penalties

The following analysis calculates new CMPs for penalty statutes in the order in which they appear in 34 CFR 36.2. The penalty amounts are being adjusted up based on the multiplier of 1.03241 provided in OMB Memorandum No. M–24–07.

Statute: 20 U.S.C. 1015(c)(5).

Current Regulations: The CMP for 20 U.S.C. 1015(c)(5) (section 131(c)(5) of the Higher Education Act of 1965, as amended (HEA)), as last set out in statute in 1998 (Pub. L. 105–244, title I, section 101(a), October 7, 1998, 112 Stat. 1602), is a fine of up to $25,000 for failure by an institution of higher education (IHE) to provide information on the cost of higher education to the Commissioner of Education Statistics. In the 2023 final rule, we increased this amount to $45,429.

New Regulations: The new penalty for this section is $46,901.

Reason: Using the multiplier of 1.03241 from OMB Memorandum No. M–24–07, the new penalty is calculated as follows: $45,429 × 1.03241 = $46,901.3552, which makes the adjusted penalty $46,901, when rounded to the nearest dollar.

Statute: 20 U.S.C. 1022d(a)(3).

Current Regulations: The CMP for 20 U.S.C. 1022d(a)(3) (section 205(a)(3) of the HEA), as last set out in statute in 2008 (Pub. L. 110–315, title II, section 201(2), August 14, 2008, 122 Stat. 3147), is a fine of up to $27,500 for failure by an IHE to provide information to the State and the public regarding its teacher-preparation programs. In the 2023 final rule, we increased this amount to $37,839.

New Regulations: The new penalty for this section is $39,065.

Reason: Using the multiplier of 1.03241 from OMB Memorandum No. M–24–07, the new penalty is calculated as follows: $37,839 × 1.03241 = $39,065.36, which makes the adjusted penalty $39,065, when rounded to the nearest dollar.

Statute: 20 U.S.C. 1082(g).

Current Regulations: The CMP for 20 U.S.C. 1082(g) (section 432(g) of the HEA), as last set out in statute in 1986 (Pub. L. 99–498, title IV, section 402(a), October 17, 1986, 100 Stat. 1401), is a fine of up to $25,000 for violations by lenders and guaranty agencies of Title IV of the HEA, which authorizes the Federal Family Education Loan Program. In the 2023 final rule, we increased this amount to $67,544.

New Regulations: The new penalty for this section is $69,733.

Reason: Using the multiplier of 1.03241 from OMB Memorandum No. M–24–07, the new penalty is calculated as follows: $67,544 × 1.03241 = $69,733.10, which makes the adjusted penalty $69,733, when rounded to the nearest dollar.

Statute: 20 U.S.C. 1094(c)(3)(B).

Current Regulations: The CMP for 20 U.S.C. 1094(c)(3)(B) (section 487(c)(3)(B) of the HEA), as set out in statute in 1986 (Pub. L. 99–498, title IV, section 407(a), October 17, 1986, 100 Stat. 1488), is a fine of up to $25,000 for an IHE's violation of title IV of the HEA or its implementing regulations. Title IV authorizes various programs of student financial assistance. In the 2023 final rule, we increased this amount to $67,544.

New Regulations: The new penalty for this section is $69,733.

Reason: Using the multiplier of 1.03241 from OMB Memorandum No. M–24–07, the new penalty is calculated as follows: $67,544 × 1.03241 = $69,733.10, which makes the adjusted penalty $69,733, when rounded to the nearest dollar.

Statute: 20 U.S.C. 1228c(c)(2)(E).

Current Regulations: The CMP for 20 U.S.C. 1228c(c)(2)(E) (section 429 of the General Education Provisions Act), as set out in statute in 1994 (Pub. L. 103–382, title II, section 238, October 20, 1994, 108 Stat. 3918), is a fine of up to $1,000 for an educational organization's failure to disclose certain information to minor students and their parents. In the

[1] If a statute that created a penalty is amended to change the penalty amount, the Department does not adjust the penalty in the year following the adjustment.

2023 final rule, we increased this amount to $1,993.

New Regulations: The new penalty for this section is $2,058.

Reason: Using the multiplier of 1.03241 from OMB Memorandum No. M–24–07, the new penalty is calculated as follows: $1,993 × 1.03241 = $2,057.59, which makes the adjusted penalty $2,058, when rounded to the nearest dollar.

Statute: 31 U.S.C. 1352(c)(1) and (c)(2)(A).

Current Regulations: The CMPs for 31 U.S.C. 1352(c)(1) and (c)(2)(A), as set out in statute in 1989 (Pub. L. 101–121, title III, section 319(a)(1), October 23, 1989, 103 Stat. 750), are a fine of $10,000 to $100,000 for recipients of Government grants, contracts, etc. that improperly lobby Congress or the executive branch with respect to the award of Government grants and contracts. In the 2022 final rule, we increased these amounts to $23,727 to $237,268.

New Regulations: The new penalties for these sections are $24,496 to $244,958.

Reason: Using the multiplier of 1.03241 from OMB Memorandum No. M–24–07, the new minimum penalty is calculated as follows: $23,727 × 1.03241 = $24,495.99, which makes the adjusted penalty $24,496, when rounded to the nearest dollar. The new maximum penalty is calculated as follows: $237,268 × 1.03241 = $244,957.85, which makes the adjusted penalty $244,958, when rounded to the nearest dollar.

Statute: 31 U.S.C. 3802(a)(1) and (a)(2).

Current Regulations: The CMPs for 31 U.S.C. 3802(a)(1) and (a)(2), as set out in statute in 1986 (Pub. L. 99–509, title VI, section 6103(a), Oct. 21, 1986, 100 Stat. 1937), are a fine of up to $5,000 for false claims and statements made to the Government. In the 2023 final rule, we increased this amount to $13,508.

New Regulations: The new penalty for this section is $13,946.

Reason: Using the multiplier of 1.03241 from OMB Memorandum No. M–24–07, the new penalty is calculated as follows: $13,508 × 1.03241 = $13,945.79, which makes the adjusted penalty $13,946 when rounded to the nearest dollar.

Executive Orders 12866, 13563, and 14094

Regulatory Impact Analysis

Under Executive Order 12866, the Office of Management and Budget (OMB) must determine whether this regulatory action is ''significant'' and, therefore, subject to the requirements of the Executive order and subject to review by OMB. Section 3(f) of Executive Order 12866, as amended by Executive Order 14094, defines a ''significant regulatory action'' as an action likely to result in a rule that may—

(1) Have an annual effect on the economy of $200 million or more (adjusted every 3 years by the Administrator of OIRA for changes in gross domestic product); or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, territorial, or Tribal governments or communities;

(2) Create serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise legal or policy issues for which centralized review would meaningfully further the President's priorities, or the principles set forth in this Executive order, as specifically authorized in a timely manner by the Administrator of OIRA in each case.

We have determined that these final regulations: (1) exclusively implement the annual adjustment; (2) are consistent with OMB Memorandum No. M–24–07; and (3) have an annual impact of less than $200 million. Therefore, based on OMB Memorandum No. M–24–07, this is not a significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866 (as amended by Executive Order 14094).

We have also reviewed these regulations under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866 (as amended by Executive Order 14094). To the extent permitted by law, Executive Order 13563 requires that an agency—

(1) Propose or adopt regulations only upon a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and taking into account, among other things, and to the extent practicable, the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives—such as user fees or marketable permits—to encourage the desired behavior, or providing information that enables the public to make choices.

Executive Order 13563 also requires an agency ''to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible.'' The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may include ''identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes.''

We are issuing these final regulations as required by statute and in accordance with OMB Memorandum No. M–24–07. The Secretary has no discretion to consider alternative approaches as delineated in the Executive order. Based on this analysis and the reasons stated in the preamble, the Department believes that these final regulations are consistent with the principles in Executive Order 13563.

Waiver of Rulemaking and Delayed Effective Date

Under the Administrative Procedure Act (APA) (5 U.S.C. 553), the Department generally offers interested parties the opportunity to comment on proposed regulations. However, section 4(b)(2) of the 2015 Act (28 U.S.C. 2461 note) provides that the Secretary can adjust these 2024 penalty amounts notwithstanding the requirements of 5 U.S.C. 553. Therefore, the requirements of 5 U.S.C. 553 for notice and comment and delaying the effective date of a final rule do not apply here.

Regulatory Flexibility Act Certification

Pursuant to 5 U.S.C. 601(2), the Regulatory Flexibility Act applies only to rules for which an agency publishes a general notice of proposed rulemaking. The Regulatory Flexibility Act does not apply to this rulemaking because section 4(b)(2) of the 2015 Act (28 U.S.C. 2461 note) provides that the Secretary can adjust these 2024 penalty amounts without publishing a general notice of proposed rulemaking.

Paperwork Reduction Act of 1995

These regulations do not contain any information collection requirements.

Intergovernmental Review

This program is not subject to Executive Order 12372 and the regulations in 34 CFR part 79.

Assessment of Educational Impact

Based on our own review, we have determined that these regulations do not require transmission of information that any other agency or authority of the United States gathers or makes available.

Accessible Format: On request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document 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.

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List of Subjects

34 CFR Part 36

Claims, Fraud, Penalties.

34 CFR Part 668

Administrative practice and procedure, Aliens, Colleges and universities, Consumer protection, Grant programs—education, Loan programs—education, Reporting and recordkeeping requirements, Selective Service System, Student aid, Vocational education.

Miguel Cardona,

Secretary of Education.

For the reasons discussed in the preamble, the Secretary amends parts 36 and 668 of title 34 of the Code of Federal Regulations as follows:

PART 36—ADJUSTMENT OF CIVIL MONETARY PENALTIES FOR INFLATION

■ 1. The authority citation for part 36 continues to read as follows:

Authority: 20 U.S.C. 1221e–3 and 3474; 28 U.S.C. 2461 note, as amended by § 701 of Pub. Law 114–74, unless otherwise noted.

■ 2. Section 36.2 is amended by revising the table to the section to read as follows:

§ 36.2 Penalty adjustment.

* * * * *

TABLE 1 TO § 36.2—CIVIL MONETARY PENALTY INFLATION ADJUSTMENTS

Statute	Description	New maximum (and minimum, if applicable) penalty amount
20 U.S.C. 1015(c)(5) (section 131(c)(5) of the Higher Education Act of 1965 (HEA)).	Provides for a fine, as set by Congress in 1998, of up to $25,000 for failure by an institution of higher education (IHE) to provide information on the cost of higher education to the Commissioner of Education Statistics.	$46,901.
20 U.S.C. 1022d(a)(3) (section 205(a)(3) of the HEA).	Provides for a fine, as set by Congress in 2008, of up to $27,500 for failure by an IHE to provide information to the State and the public regarding its teacher-preparation programs.	39,065.
20 U.S.C. 1082(g) (section 432(g) of the HEA)	Provides for a civil penalty, as set by Congress in 1986, of up to $25,000 for violations by lenders and guaranty agencies of title IV of the HEA, which authorizes the Federal Family Education Loan Program.	69,733.
20 U.S.C. 1094(c)(3)(B) (section 487(c)(3)(B) of the HEA).	Provides for a civil penalty, as set by Congress in 1986, of up to $25,000 for an IHE's violation of title IV of the HEA, which authorizes various programs of student financial assistance.	69,733.
20 U.S.C. 1228c(c)(2)(E) (section 429 of the General Education Provisions Act).	Provides for a civil penalty, as set by Congress in 1994, of up to $1,000 for an educational organization's failure to disclose certain information to minor students and their parents.	2,058.
31 U.S.C. 1352(c)(1) and (c)(2)(A)	Provides for a civil penalty, as set by Congress in 1989, of $10,000 to $100,000 for recipients of Government grants, contracts, etc. that improperly lobby Congress or the executive branch with respect to the award of Government grants and contracts.	$24,496 to $244,958.
31 U.S.C. 3802(a)(1) and (a)(2)	Provides for a civil penalty, as set by Congress in 1986, of up to $5,000 for false claims and statements made to the Government.	13,946.

PART 668—STUDENT ASSISTANCE GENERAL PROVISIONS

■ 3. The authority citation for part 668 continues to read in part as follows:

Authority: 20 U.S.C. 1001–1003, 1070g, 1085, 1088, 1091, 1092, 1094, 1099c, 1099c–1, and 1231a, unless otherwise noted.

§ 668.84 [Amended]

■ 4. Section 668.84 is amended in the introductory text of paragraph (a)(1) by removing the number ''$67,544'' and adding, in its place, the number ''$69,733''.

[FR Doc. 2024–01449 Filed 1–24–24; 8:45 am]

BILLING CODE 4000–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CG Docket No. 17–59; WC Docket No. 17–97; FCC 23–18; FCC 23–37; FR ID 196696]

Advanced Methods To Target and Eliminate Unlawful Robocalls, Call Authentication Trust Anchor

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective and compliance dates.

SUMMARY: In this document, the Federal Communications Commission (Commission) announces that the Office of Management and Budget (OMB) has approved, for a period of three years, an information collection associated with the Commission's *Sixth Caller ID Authentication Report and Order* (*Sixth Report and Order*), FCC 23–18, and *Seventh Caller ID Authentication Report and Order* (*Seventh Report and Order*), FCC 23–37, in which the Commission, among other actions, expanded its non-internet Protocol call authentication and robocall mitigation database rules. This document is consistent with the *Sixth Report and Order* and *Seventh Report and Order,* which stated that the Commission would publish a document in the **Federal Register** announcing the effective date of these rules.

DATES: The amendments to 47 CFR 64.6303(c) (amendatory instruction 9) and 47 CFR 64.6305(d), (e), (f), and (g) (amendatory instruction 12), published at 88 FR 49006, June 21, 2023, and the amendments to 47 CFR 64.6305(d)(2)(ii) and (iii), (e)(2)(ii), and (f)(2)(iii) (amendatory instruction 5), published at 88 FR 43446, July 10, 2023, are effective February 26, 2024. The compliance date for 47 CFR 64.6305(g) is May 24, 2024.

FOR FURTHER INFORMATION CONTACT: Erik Beith, Competition Policy Division, Wireline Competition Bureau, at (202) 418–0756, or email: *erik.beith@fcc.gov.*

SUPPLEMENTARY INFORMATION: This document announces that, on November 7, 2023, OMB approved, for a period of three years, the information collection requirements relating to §§ 64.6303(c), 64.6305(d), (e), and (f) of the Commission's rules, as contained in the Commission's *Sixth Report and Order,* FCC 23–18, published at 88 FR 40096 on June 21, 2023, and *Seventh Report and Order,* FCC 23–37, published at 88 FR 43446 on July 10, 2023. The OMB Control Number is 3060–1285.

The effective date of the rules amending 47 CFR 64.6303(c) and 47 CFR 64.6305(d), (e), and (f) was delayed indefinitely in 88 FR 40096. The effective date of the rule amending 47 CFR 64.6305(g) was also delayed indefinitely because it contained a compliance date that could not be set until **Federal Register** notice of OMB approval of the information collection requirements associated with 47 CFR 64.6305(f). The effective date of the rule further amending 47 CFR 64.6305(d)(2)(ii) and (iii), (e)(2)(ii), and (f)(2)(iii) was delayed indefinitely in 88 FR 43446 pending **Federal Register** notice of OMB approval of the information collection requirements associated with the underlying amendments to 47 CFR 6305(d), (e), and (f). In the *Sixth Report and Order* and *Seventh Report and Order,* the Commission directed the Wireline Competition Bureau to announce the effective dates for these rule amendments.

The Commission publishes this document as an announcement of the effective dates of the amendments to 47 CFR 64.6303(c), 64.6305(d), (e), (f), and (g).

If you have any comments on the burden estimates listed below, or how the Commission can improve the collections and reduce any burdens caused thereby, please contact Nicole Ongele, Federal Communications Commission, 45 L Street NE, Washington, DC 20554. Please include the OMB Control Number, 3060–1285, in your correspondence. The Commission will also accept your comments via email at *PRA@fcc.gov.*

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Synopsis

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the FCC is notifying the public that it received final OMB approval on November 7, 2023 for the information collection requirements contained in the modifications to the Commission's rules in 47 CFR part 64 (47 CFR 64.6303(c), 64.6305(d), (e), and (f)). These actions allow the Wireline Competition Bureau to announce the effective date of these rules, as well as for 47 CFR 64.6305(g).

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

No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a current, valid OMB Control Number. The OMB Control Number is 3060–1285.

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

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

OMB Control Number: 3060–1285.

OMB Approval Date: November 7, 2023.

OMB Expiration Date: November 30, 2026.

Title: Compliance with the Non-IP Call Authentication Solutions Rules; Robocall Mitigation Database (RMD).

Form Number: N/A.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 12,800 respondents; 12,800 responses.

Estimated Time per Response: 0.5–6 hours (on average).

Frequency of Response: Recordkeeping requirement and on-occasion and reporting requirement.

Obligation to Respond: Mandatory and required to obtain or retain benefits. The statutory authority for this information collection is contained in 47 U.S.C. 227(b), 251(e), and 227(e) of the Communications Act of 1934.

Total Annual Burden: 39,663 hours.

Total Annual Cost: No Cost.

Needs and Uses: Sections 227(b), 251(e), and 227(e) of the Communications Act of 1934, (''Act'') as amended, 47 U.S.C. 227(b), 251(e), and 227(e). On March 13, 2023, and May 19, 2023, respectively, the Commission released the *Sixth Report and Order,* FCC 23–18, published at 88 FR 40096, June 21, 2023, and the *Seventh Report and Order,* FCC 23–37, published at 88

43446, July 10, 2023, adopting final rules containing information collection requirements designed to promote caller ID authentication technology. These rules governing non-gateway intermediate providers, among other entities, implement the Pallone-Thune Telephone Robocall Abuse Criminal Enforcement and Deterrence Act (TRACED Act), promote the deployment of caller ID authentication technology, and combat the practice of illegal caller ID spoofing.

List of Subjects in 47 CFR Part 64

Carrier equipment, Communications common carriers, Reporting and recordkeeping requirements, Telecommunications, Telephone.

Federal Communications Commission.

Marlene Dortch,

Secretary.

[FR Doc. 2024–01167 Filed 1–24–24; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 230316–0077; RTID 0648–XD685]

Fisheries of the Northeastern United States; Atlantic Herring Fishery; 2024 River Herring and Shad Catch Cap Reached for Midwater Trawl Vessels in the Cape Cod Catch Cap Closure Area

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

ACTION: Temporary rule; possession limit adjustment.

SUMMARY: NMFS is reducing the Atlantic herring possession limit for herring vessels fishing with midwater trawl in the River Herring and Shad Cape Cod Catch Cap Closure Area. This is required because NMFS projects that catch of river herring and shad by midwater trawl herring vessels will reach the Cape Cod Catch Cap threshold for river herring and shad before the end of the fishing year. This action is intended to prevent overharvest of river herring and shad.

DATES: Effective 00:01 hours local time, January 23, 2024, through December 31, 2024.

FOR FURTHER INFORMATION CONTACT: Louis Forristall, Fishery Management Specialist, (978)-281–9321.

SUPPLEMENTARY INFORMATION: The Regional Administrator of the Greater Atlantic Regional Fisheries Office monitors river herring and shad catch by Atlantic herring vessels. River herring and shad catch caps are allocated to the herring fishery by area and gear type.

The Cape Cod Catch Cap Area river herring and shad cap is allocated to Atlantic herring vessels using midwater trawl gear in the Cape Cod Catch Cap Area. Catch from all Atlantic herring trips using midwater trawl gear in that area that land more than 6,600 pounds (lb), equivalent to 2,994 kilograms (kg), of herring is counted towards the river herring and shad catch cap. Regulations at 50 CFR 648.201(a)(4)(ii) require NMFS to implement a 2,000-lb (907.2-kg) Atlantic herring possession limit for vessels fishing with the specified gear in a specified catch cap closure area beginning on the date that catch is projected to reach 95 percent of the river herring and shad catch cap for that area.

Based on vessel reports, dealer reports, and other available information, the Regional Administrator projects that midwater trawl herring vessels will have caught 95 percent of the river herring and shad 2024 Cape Cod Catch Cap by January 23, 2024. Therefore, effective 00:01 hours local time January 23, 2024, through 24:00 hours local time on December 31, 2024, Atlantic herring vessels using midwater trawl gear may not attempt or do any of the following: Fish for, possess, transfer, receive, land, or sell more than 2,000 lb (907.2 kg) of Atlantic herring from the Cape Cod Catch Cap Closure Area per trip; or land Atlantic herring from the Cape Cod Catch Cap Closure Area more than once per calendar day. Also effective 00:01 hours local time, January 23, 2024, through 24:00 hours local time, December 31, 2024, unless it is from a vessel that enters port before 00:01 hours local time on January 23, 2024, and catch is landed in accordance with state management measures, federally permitted dealers may not attempt or do any of the following: purchase; receive; possess; have custody or control of; sell; barter; trade; or transfer more than 2,000 lb (907.2 kg) of Atlantic herring per trip or calendar day from an Atlantic herring midwater trawl vessel fishing in the Cape Cod Catch Cap Closure Area.

Midwater trawl vessels may transit through or land in the Cape Cod Catch Cap Closure Area with more than 2,000 lb (907.2 kg) of Atlantic herring on board, provided that: The herring were caught in an area not subject to a 2,000-lb (907.2-kg) limit; all fishing gear is stowed and not available for immediate use as defined at § 648.2 while the vessel is in the Closure Area; and the vessel is issued a permit appropriate to the amount of herring on board and the area where the herring was harvested.

Classification

This action is required by 50 CFR part 648 and is exempt from review under Executive Order 12866.

NMFS finds good cause pursuant to 5 U.S.C. 553(b)(3)(B) to waive prior notice and the opportunity for public comment because it would be impracticable, unnecessary, and contrary to the public interest. Data only recently became available indicating that midwater trawl herring vessels will catch 95 percent of the river herring and shad Cape Cod Catch Cap before the end of the fishing year. High-volume catch and landings in the herring fishery can increase river herring and shad catch relative to catch caps quickly. If implementation of this action is delayed to solicit prior public comment, the 2024 Cape Cod Catch Cap will likely be exceeded; thereby undermining the conservation objectives of the Atlantic Herring Fishery Management Plan (FMP). Additionally, the regulations at § 648.201(a)(4)(ii) are designed to be implemented as quickly as possible to prevent catch from exceeding river herring and shad catch caps. NMFS is acting in accordance with those regulations to carry out the fishery management plan under the authority provided in section 305(d) of the Magnuson-Stevens Fishery Conservation and Management Act. These regulations were subject to public notice and opportunity to comment when they were first adopted in 2014. Further, Atlantic herring fishing industry participants monitor catch closely and anticipate potential possession limit adjustments as catch totals approach river herring and shad catch caps, and they expect these actions to occur in a timely way consistent with the FMP's objectives. For the reasons stated above, NMFS also finds good cause to waive the 30-day delayed effectiveness in accordance with 5 U.S.C 553(d)(3).

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

Dated: January 22, 2024.

Everett Wayne Baxter,

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

[FR Doc. 2024–01455 Filed 1–22–24; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 89, No. 17
Thursday, January 25, 2024

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 985

[Doc. No. AMS–SC–23–0068]

Marketing Order Regulating the Handling of Spearmint Oil Produced in the Far West; Salable Quantities and Allotment Percentages for the 2024–2025 Marketing Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would implement a recommendation from the Far West Spearmint Oil Administrative Committee (Committee) to establish salable quantities and allotment percentages for Class 1 (Scotch) and Class 3 (Native) spearmint oil produced in Washington, Idaho, and Oregon and parts of Nevada and Utah (Far West) for the 2024–2025 marketing year. This proposed rule would also remove references to past volume regulation no longer in effect.

DATES: Comments must be received by February 26, 2024.

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

FOR FURTHER INFORMATION CONTACT: Josh Wilde, Marketing Specialist, or Barry Broadbent, Acting Chief, West Region Branch, Market Development Division, Specialty Crops Program, AMS, USDA; Telephone: (503) 326–2282, or Email: *Joshua.R.Wilde@usda.gov* or *Barry.Broadbent@usda.gov.*

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

SUPPLEMENTARY INFORMATION: This action, pursuant to 5 U.S.C. 553, proposes to amend regulations issued to carry out a marketing order as defined in 7 CFR 900.2(j). This proposed rule is issued under Marketing Order No. 985, as amended (7 CFR part 985), regulating the handling of spearmint oil produced in the Far West. Part 985 (referred to as the ''Order'') is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.'' The Committee locally administers the Order and comprises spearmint oil producers operating within the area of production, and a public member.

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

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

This proposed rule has been reviewed under Executive Order 12988—Civil Justice Reform. This proposed rule is not intended to have retroactive effect. Under the Order now in effect, salable quantities and allotment percentages may be established for classes of spearmint oil produced in the Far West. This proposed rule would establish salable quantities and allotment percentages for Scotch and Native spearmint oil for the 2024–2025 marketing year, which begins on June 1, 2024.

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

Pursuant to the requirements in § 985.50 of the Order, the Committee meets each year to consider supply and demand of spearmint oil and to adopt a marketing policy for the ensuing marketing year. In determining such marketing policy, the Committee

considers several factors, including, but not limited to, the current and projected supply of oil, estimated future demand, production costs, and producer prices for both classes of spearmint oil. Input from spearmint oil handlers and producers are considered as well.

Pursuant to the provisions in § 985.51, when the Committee's marketing policy considerations indicate a need to establish or to maintain stable market conditions through volume regulation, the Committee subsequently recommends to AMS the establishment of a salable quantity and allotment percentage for such class or classes of oil for the upcoming marketing year. Recommendations for volume control are intended to ensure market requirements for Far West spearmint oil are satisfied and orderly marketing conditions are maintained.

Salable quantity represents the total quantity of each class of oil (Scotch or Native) which handlers may purchase from, or handle on behalf of, producers during a given marketing year. The allotment percentage for each class of spearmint oil is the salable quantity for that class of oil divided by the total of all producers' allotment base for the same class of oil. A producer's allotment base is their calculated share of the spearmint oil market based on a statistical representation of past spearmint production and sales. In order to account for changes in production and demand over time, the Committee periodically reviews and adjusts each producer's allotment base in accordance with a formula prescribed by the Committee and approved by AMS. Each producer's annual allotment of the salable quantity is calculated by multiplying their respective allotment base for each class of spearmint oil by the allotment percentage for that class of spearmint oil. The total allotment base is revised each year on June 1 to account for producer allotment base being lost as a result of the ''bona fide effort'' production provision of § 985.53(e) and additional base made available pursuant to the provisions of § 985.153.

Salable quantities and allotment percentages are established at levels intended to maintain orderly marketing conditions while also ensuring that markets are adequately supplied. Further, Committee recommendations for volume control are made in advance of the upcoming marketing year in which the regulations are to be effective, thereby allowing producers ample time to adjust their production decisions accordingly.

The Committee met on October 11, 2023, to consider its marketing policy for the 2024–2025 marketing year. At that meeting, the Committee determined that, based on the current market and supply conditions, volume regulation for both classes of oil would be necessary. The Committee unanimously recommended, with a vote of seven in favor and none opposed, a salable quantity and allotment percentage for Scotch spearmint oil of 663,648 pounds and 29 percent, respectively. In addition, the Committee unanimously recommended a salable quantity and allotment percentage for Native spearmint oil of 678,980 pounds and 26 percent, respectively.

This proposed action would establish the amount of Scotch and Native spearmint oil that handlers may purchase from, or handle on behalf of, producers during the 2024–2025 marketing year, which begins on June 1, 2024. Salable quantities and allotment percentages have been in effect each season since the Order's inception in 1980.

Scotch Spearmint Oil

The Committee recommended a Scotch spearmint oil salable quantity of 663,648 pounds and an allotment percentage of 29 percent for the 2024–2025 marketing year. The proposed salable quantity of 663,648 pounds is 109,056 pounds less than the salable quantity of 772,704 pounds established for the 2023–2024 marketing year. The recommended 29 percent allotment percentage for the 2024–2025 marketing year is 5 percent less than the 34 percent in effect the previous marketing year.

The total allotment base for the coming marketing year is estimated to be 2,288,442 pounds. This figure represents a one-percent increase over the revised 2023–2024 marketing year total allotment base of 2,265,784 pounds. The proposed salable quantity (663,648 pounds) is the product of total allotment base (2,288,442 pounds) times the proposed allotment percentage (approximately 28.999 percent, rounded to 29 percent).

The Committee considered several factors in making its recommendation, including the current and projected future supply, estimated future demand, production costs, and producer prices. The Committee's recommendation also accounts for the established acreage of Scotch spearmint, consumer demand, existing carry-in, reserve pool volume, and production in competing markets.

According to the Committee, as costs of production have increased and spearmint oil prices have decreased, many producers have forgone new plantings of Scotch spearmint. This has resulted in a significant decline in production of Scotch spearmint oil in recent years. Production has decreased from 1,113,346 pounds produced in 2016 to an estimated 483,617 pounds of Scotch spearmint production in 2023.

Industry reports indicate that trade demand for Far West Scotch spearmint oil, which had been declining in recent years, has begun to stabilize. Sales of Far West Scotch spearmint oil declined from a high of 1,060,232 pounds during the 2014–2015 marketing year to a low of 488,484 pounds in the 2020–2021 marketing year. Sales of Far West Scotch spearmint oil totaled 597,852 pounds during the 2022–2023 marketing year, the last full year of available data. The Committee indicates that production of Scotch spearmint oil in competing markets, most notably by Canadian producers, continues to exert downward pressure on trade demand for Scotch spearmint oil from the Far West.

Given the anticipated market conditions for the coming year, the Committee estimates that Scotch spearmint oil trade demand for the 2024–2025 marketing year will be 600,000 pounds, which is 35,000 pounds lower than the prior year estimate and just below the 5-year moving sales average of 614,157 pounds. Should the proposed volume regulation levels prove insufficient to adequately supply the market, the Committee has the authority to recommend intra-seasonal increases of the salable quantity and allotment percentage, as it has in previous marketing years.

The Committee calculated the minimum salable quantity of Scotch spearmint oil that would be required during the 2024–2025 marketing year (266,880 pounds) by subtracting the estimated salable carry-in on June 1, 2024, (333,120 pounds) from the estimated trade demand (600,000 pounds). This minimum salable quantity represents the estimated minimum amount of Scotch spearmint oil that would be needed to satisfy estimated trade demand for the coming year. To ensure that the market would be fully supplied, the Committee recommended a 2024–2025 marketing year salable quantity of 663,648 pounds. The recommended salable quantity, combined with an estimated 333,120 pounds of salable carry-in from the previous year, would yield a total available supply of 996,768 pounds of Scotch spearmint oil for the 2024–2025 marketing year. With the recommended salable quantity and current market environment, the Committee estimates that as much as 396,768 pounds of salable Scotch spearmint oil could be

carried into the 2025–2026 marketing year.

Salable carry-in is the primary measure of excess spearmint oil supply under the Order, as it represents overproduction in prior years that is currently available to the market without restriction. Under volume regulation, spearmint oil that is designated as salable continues to be available to the market until it is sold and may be marketed at any time at the discretion of the owner.

The Committee estimates that there will be 333,120 pounds of salable carry-in of Scotch spearmint oil on June 1, 2024. If current market conditions are maintained and the Committee's projections are correct, salable carry-in would increase to 396,768 pounds at the beginning of the 2025–2026 marketing year. This level would be above the quantity that the Committee generally considers favorable (150,000 pounds). However, the Committee believes that, given the current economic conditions in the Scotch spearmint oil industry, some Scotch spearmint oil producers may not produce their annual allotment for the 2024–2025 marketing year. Further, the Committee estimates that as much as 296,118 pounds of the 2023–2024 marketing year annual allotment may not be filled by producers. While the Committee has not projected unused base allotment for the upcoming 2024–2025 marketing year, it anticipates that the actual quantity of Scotch spearmint oil carried into the 2024–2025 marketing year will be much less than the quantity calculated above (333,120 pounds).

Spearmint oil held in reserve is oil that has been produced in excess of a producer's annual allotment, either in the current marketing year or in prior years, and is restricted from freely entering the market. After December 1 of each marketing year, reserve pool oil is not available to the market in the current marketing year without an increase in the salable quantity and allotment percentage. The Order does include provision for reserve oil to be released for limited market development projects, with approval of the Secretary, but this provision is rarely utilized.

Oil held in the reserve pool is another indicator of excess supply. Scotch spearmint oil held in reserve was 26,062 pounds as of May 31, 2023, up from 23,667 pounds as of May 31, 2022. This quantity of reserve pool oil should be an adequate buffer to supply the market, if necessary, should the industry experience an unexpected increase in demand.

The Committee recommended an allotment percentage of 29 percent for the 2024–2025 marketing year for Scotch spearmint oil. During its October 11, 2023, meeting, the Committee calculated an initial allotment percentage by dividing the minimum required salable quantity (266,880 pounds) by the total estimated allotment base (2,288,442 pounds), resulting in 11.7 percent. However, producers and handlers at the meeting indicated that the computed percentage (11.7 percent) might not adequately satisfy potential 2024–2025 marketing year Scotch spearmint oil market demand and may also result in a less than desirable carry-in for the subsequent marketing year. After deliberation, the Committee recommended an allotment percentage of 29 percent. The total estimated allotment base (2,288,442 pounds) for the 2024–2025 marketing year, multiplied by the recommended allotment percentage (29 percent), yields 663,648 pounds, which is the recommended salable quantity for the 2024–2025 marketing year.

The 2024–2025 marketing year computational data for the Committee's recommendations is detailed below.

(A) *Estimated carry-in of Scotch spearmint oil on June 1, 2024: 333,120 pounds.* This figure is the difference between the 2023–2024 marketing year total available supply of 933,120 pounds and the revised 2023–2024 marketing year estimated trade demand of 600,000 pounds.

(B) *Estimated trade demand of Scotch spearmint oil for the 2024–2025 marketing year: 600,000 pounds.* This figure was established at the Committee meeting held on October 11, 2023.

(C) *Minimum salable quantity of Scotch spearmint oil required from the 2024–2025 marketing year production: 266,880 pounds.* This figure is the difference between the estimated 2024–2025 marketing year trade demand (600,000 pounds) and the estimated carry-in on June 1, 2024 (333,120 pounds). This salable quantity represents the minimum amount of Scotch spearmint oil that would be needed to satisfy estimated demand for the coming year.

(D) *Total estimated Scotch spearmint oil allotment base of for the 2024–2025 marketing year: 2,288,442 pounds.* This figure represents a one-percent increase over the 2023–2024 marketing year total actual allotment base of 2,265,784 pounds, as prescribed by § 985.53(d). The one-percent increase equals 22,658 pounds. This total estimated allotment base is revised each year on June 1 in accordance with § 985.53(e).

(E) *Computed Scotch spearmint oil allotment percentage for the 2024–2025 marketing year: 11.7 percent.* This percentage is computed by dividing the minimum required salable quantity (266,880) by the total estimated allotment base (2,288,442 pounds).

(F) *Recommended Scotch spearmint oil allotment percentage for the 2024–2025 marketing year: 29 percent.* This is the Committee's recommendation and is based on the computed allotment percentage (11.7 percent) and input from producers and handlers at the October 11, 2023, meeting. The recommended 29 percent allotment percentage reflects the Committee's belief that the computed percentage (11.7 percent) may not adequately supply the anticipated 2024–2025 marketing year Scotch spearmint oil market demand.

(G) *Recommended Scotch spearmint oil salable quantity for the 2024–2025 marketing year: 663,648 pounds.* This figure is the product of the recommended salable allotment percentage (29 percent) and the total estimated allotment base (2,288,442 pounds) for the 2024–2025 marketing year.

(H) *Estimated total available supply of Scotch spearmint oil for the 2024–2025 marketing year: 996,768 pounds.* This figure is the sum of the 2024–2025 marketing year recommended salable quantity (663,648 pounds) and the estimated carry-in on June 1, 2024 (333,120 pounds).

For the reasons stated above, the Committee believes that the recommended salable quantity and allotment percentage would adequately satisfy trade demand, would result in a reasonable carry-in for the following year, and would contribute to the orderly marketing of Scotch spearmint oil.

Native Spearmint Oil

The Committee recommended a Native spearmint oil salable quantity of 678,980 pounds and an allotment percentage of 26 percent for the 2024–2025 marketing year. These figures are, respectively, 355,512 pounds and 14 percentage points lower than the levels established for the 2023–2024 marketing year. The Committee utilized handlers' estimated trade demand of Native spearmint oil for the coming year, historical and current Native spearmint oil production, inventory statistics, and international market data obtained from consultants for the spearmint oil industry to arrive at these recommendations.

The Committee anticipates that 2023 Native spearmint oil production will total 1,015,570 pounds, up from the previous year's production of 941,026 pounds. Committee records indicate

that spearmint-producing acres in the Far West declined from a recent high of 9,013 acres in 2019 to 6,078 acres of Native spearmint production in 2022, before rebounding to an estimated 6,761 acres in 2023 on the strength of new plantings.

Sales of Native spearmint oil have been trending downward since the 2017–2018 marketing year, falling from a recent high of 1,332,260 pounds during the 2020–2021 marketing year to 988,536 pounds for the 2021–2022 marketing year, representing a 10-year low. However, sales of Native spearmint oil improved slightly to 1,044,835 pounds for the 2022–2023 marketing year, the last full year for which data is available. The Committee expects demand to remain fairly stable, estimating trade demand for Native spearmint oil at 1,000,000 pounds for the 2024–2025 marketing year.

The Committee anticipates that 447,520 pounds of salable Native spearmint oil from prior years will be carried into the 2024–2025 marketing year. This amount is up from the 308,440 pounds of salable oil carried into the 2023–2024 marketing year and well above the level that the Committee generally considers favorable (150,000 pounds).

The Committee estimates that there will be 1,048,733 pounds of Native spearmint oil in the reserve pool at the beginning of the 2024–2025 marketing year. Native reserve pool oil has been fairly stable over the past several marketing years. The reserve pool increased from 996,050 pounds at the start of the 2016–2017 marketing year to 1,219,122 pounds to start the 2021–2022 marketing year. However, the pool was reduced to 1,055,135 pounds by the start of the 2022–2023 marketing year, in line with the 1,048,733 pounds of Native spearmint oil that the Committee projects will be held in the reserve pool to begin the 2024–2025 marketing year.

The Committee expects end users of Native spearmint oil to continue to rely on Far West production as their primary source of high-quality Native spearmint oil. However, increases in domestic production of Native spearmint from regions outside of the Far West production area has created additional competition for market share. For example, there were fewer than 2,000 acres of Native spearmint production in the U.S. Midwest region in 2016, compared with over 10,000 acres of Native spearmint oil production in the Far West. However, the Committee's 2023 estimates indicate that Far West acreage has declined to approximately 6,761 acres, compared to Native spearmint producing acreage of around 3,000 acres in the Midwest. This situation has contributed to declining trade demand for Far West Native spearmint oil and led to downward pressure on producer prices.

Given the anticipated market conditions for the coming year, the Committee estimated the 2024–2025 marketing year Native spearmint oil trade demand to be 1,000,000 pounds. This figure is based on input provided by producers at six production area meetings held in September and October 2023, as well as estimates provided by handlers and other meeting participants at the October 11, 2023, Committee meeting. This figure represents a decrease of 150,000 pounds from the previous year's estimated trade demand for the 2023–2024 marketing year. The average estimated trade demand for Native spearmint oil derived from the production area meetings was 1,020,833 pounds, whereas the handlers' estimates ranged from 950,000 to 1,200,000 pounds. The quantity marketed over the most recent full marketing year, 2022–2023, was 1,044,835 pounds.

The estimated June 1, 2024, carry-in of 447,520 pounds of Native spearmint oil, plus the recommended 2024–2025 marketing year salable quantity of 678,980 pounds, would result in an estimated total available supply of 1,126,500 pounds of Native spearmint oil during the 2024–2025 marketing year. With the corresponding estimated trade demand of 1,000,000 pounds, the Committee projects that 126,500 pounds of salable oil will be carried into the 2025–2026 marketing year. The Committee estimates that there will be 1,048,733 pounds of Native spearmint oil held in the reserve pool at the beginning of the 2024–2025 marketing year. Should the industry experience an unexpected increase in trade demand, oil in the Native spearmint oil reserve pool could be released through an intra-seasonal increase in the salable quantity and allotment percentage to satisfy that demand.

The Committee recommended a Native spearmint oil allotment percentage of 26 percent for the 2024–2025 marketing year. During its October 11, 2023, meeting, the Committee calculated an initial allotment percentage of 21.2 percent by dividing the minimum required salable quantity to satisfy estimated trade demand (552,480 pounds) by the total allotment base (2,611,463 pounds). However, producers and handlers at the meeting expressed concern that the computed percentage of 21.2 percent may not adequately supply the potential 2024–2025 marketing year Native spearmint oil market demand. Further, it could result in a less than adequate carry-in for the subsequent marketing year. After deliberation, the Committee increased its allotment percentage recommendation to 26 percent. The total estimated Native spearmint oil allotment base (2,611,463 pounds) multiplied by the recommended salable allotment percentage (26 percent) yields 678,980 pounds, the recommended Native spearmint oil salable quantity for the 2024–2025 marketing year.

The 2024–2025 marketing year computational data for the Committee's recommendation is further outlined below.

(A) *Estimated carry-in of Native spearmint oil on June 1, 2024: 447,520 pounds.* This figure is the difference between the estimated 2023–2024 marketing year total available supply of 1,447,520 pounds and the revised 2023–2024 marketing year estimated trade demand of 1,000,000 pounds.

(B) *Estimated trade demand of Native spearmint oil for the 2024–2025 marketing year: 1,000,000 pounds.* This estimate was established by the Committee at its October 11, 2023, meeting.

(C) *Minimum salable quantity of Native spearmint oil required from the 2024–2025 marketing year production: 552,480 pounds.* This figure is the difference between the 2024–2025 marketing year estimated trade demand (1,000,000 pounds) and the estimated carry-in on June 1, 2024 (447,520 pounds). This is the minimum amount of Native spearmint oil that the Committee believes would be required to meet the anticipated 2024–2025 marketing year trade demand.

(D) *Total estimated allotment base of Native spearmint oil for the 2024–2025 marketing year: 2,611,463 pounds.* This figure represents a one-percent increase over the 2023–2024 marketing year actual total allotment base of 2,585,607 pounds as prescribed in § 985.53(d). The one-percent increase equals 25,856 pounds of oil. This estimate is revised each year on June 1, to adjust for the bona fide effort production provisions of § 985.53(e).

(E) *Computed Native spearmint oil allotment percentage for the 2024–2025 marketing year: 21.2 percent.* This percentage is calculated by dividing the required minimum salable quantity (552,480 pounds) by the total estimated allotment base (2,611,463 pounds) for the 2024–2025 marketing year.

(F) *Recommended Native spearmint oil allotment percentage for the 2024–2025 marketing year: 26 percent.* This is the Committee's recommendation based on the computed allotment percentage

(21.2 percent) and input from producers and handlers at the October 11, 2023, meeting. The recommended 26 percent allotment percentage is also based on the Committee's belief that the computed percentage (21.2 percent) may not adequately supply the potential market for Native spearmint oil in the 2024–2025 marketing year or allow for sufficient salable Native spearmint oil to be carried into the beginning of the 2024–2025 marketing year.

(G) *Recommended Native spearmint oil 2024–2025 marketing year salable quantity: 678,980 pounds.* This figure is the product of the recommended allotment percentage (26 percent) and the total estimated allotment base (2,611,463 pounds).

(H) *Estimated available supply of Native spearmint oil for the 2024–2025 marketing year: 1,126,500 pounds.* This figure is the sum of the 2024–2025 marketing year recommended salable quantity (678,980 pounds) and the estimated carry-in on June 1, 2024 (447,520 pounds). This amount could be increased, as needed, through an intra-seasonal increase in the salable quantity and allotment percentage.

The Committee's recommended Scotch and Native spearmint oil salable quantities and allotment percentages of 663,648 pounds and 29 percent, and 678,980 pounds and 26 percent, respectively, would match the available supply of each class of spearmint oil to the estimated demand of each, thus avoiding extreme fluctuations in inventories and prices. This proposed rule is similar to regulations issued in prior seasons.

The salable quantities in this proposed rule are not expected to cause a shortage of either class of spearmint oil. Any unanticipated or additional market demand for either class of spearmint oil which may develop during the marketing year could be satisfied by an intra-seasonal increase in the salable quantity and corresponding allotment percentage. The Order contains a provision in § 985.51 for intra-seasonal increases to allow the Committee the flexibility to respond quickly to changing market conditions.

Under volume regulation, producers who produce more than their annual allotments during the marketing year may transfer such excess spearmint oil to producers who have produced less than their annual allotment. In addition, on December 1 of each year, producers who have not transferred their excess spearmint oil to other producers must place their excess spearmint oil production into the reserve pool to be released in the future. Each producer controls the disposition of their respective reserve pool spearmint oil, in accordance with market needs and the Order's volume regulation provisions, and under the Committee's oversight.

In conjunction with the issuance of this proposed rule, AMS has reviewed the Committee's marketing policy statement for the 2024–2025 marketing year. The Committee's marketing policy statement, a requirement whenever the Committee recommends volume regulation, meets the requirements of §§ 985.50 and 985.51.

The establishment of the proposed salable quantities and allotment percentages would allow for anticipated market needs. In determining anticipated market needs, the Committee considered historical sales, as well as changes and trends in production and demand. This proposal would also provide producers with information regarding the amount of spearmint oil that should be produced for the 2024–2025 and subsequent marketing years to meet anticipated market demand.

Initial Regulatory Flexibility Analysis

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

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

There are approximately 39 producers of Scotch spearmint oil and 92 producers of Native spearmint oil operating within the regulated production area. In addition, there are approximately 7 spearmint oil handlers (both Scotch and Native spearmint) subject to regulation under the Order. Small agricultural service firms are defined by the Small Business Administration (SBA) as those having annual receipts of equal to or less than $34.0 million (Postharvest Crop Activities, NAICS code 11514). Small agricultural producers of spearmint oil are defined as those having annual receipts of equal to or less than $2.5 million (All Other Miscellaneous Crop Farming, NAICS code 111998) (13 CFR 121.201).

The Committee reported that recent producer prices for spearmint oil have ranged from $18.00 to $22.00 per pound. The National Agricultural Statistics Service (NASS) reported that the 2022 U.S. season average spearmint oil producer price per pound was $20.40. Spearmint oil utilization for the 2022–2023 marketing year, as reported by the Committee, was 597,852 pounds and 1,044,835 pounds for Scotch and Native spearmint oil, respectively, for a total of 1,642,687 pounds. Multiplying $20.40 per pound by 2022–2023 marketing year spearmint oil utilization of 1,642,687 pounds yields a crop value estimate of about $33.5 million.

Given the accounting requirements for the volume regulation provisions of the Order, the Committee maintains accurate records of each producer's production and sales. Using the $20.40 average spearmint oil price and Committee production data for each producer, the Committee estimates that 38 of the 39 Scotch spearmint oil producers and all of the 92 Native spearmint oil producers could be classified as small entities under the SBA definition.

There is no third-party or governmental entity that collects and reports spearmint oil prices received by spearmint oil handlers. However, the Committee estimates an average spearmint oil handling markup at approximately 20 percent of the price received by producers. Twenty percent of the 2022 producer price ($20.40) is $4.08, which results in a handler Free on Board (f.o.b.) price per pound estimate of $24.48 ($20.40 + $4.08).

Multiplying this estimated handler f.o.b. price by the 2022–2023 marketing year total spearmint oil utilization of 1,642,687 pounds results in an estimated handler-level spearmint oil value of $40.2 million. Dividing this figure by the number of handlers (7) yields estimated average annual handler receipts of about $5.7 million, which is well below the $34.0 million SBA threshold for small agricultural service firms.

Furthermore, using confidential data compiled by the Committee on the pounds of spearmint oil handled by each handler and the abovementioned estimated handler price per pound, the Committee reported that it is not likely that any of the seven handlers had 2022–2023 marketing year spearmint oil sales that exceeded SBA's threshold.

Therefore, in view of the foregoing, the majority of producers of spearmint oil may be classified as small entities, and all of the handlers of spearmint oil may be classified as small entities.

This proposed rule would establish the quantity of spearmint oil produced in the Far West, by class, which

handlers may purchase from, or handle on behalf of, producers during the 2024–2025 marketing year. The Committee recommended this proposed action to help maintain stability in the spearmint oil market by matching supply to estimated demand, thereby avoiding extreme fluctuations in supplies and prices. Establishing quantities that may be purchased from or handled on behalf of producers during the marketing year through volume regulation allows producers to coordinate their spearmint oil production with the expected market demand. Authority for this proposal is provided in §§ 985.50, 985.51, and 985.52 of the Order.

The Committee estimates the total trade demand for the 2024–2025 marketing year for both classes of oil at 1,600,000 pounds. In addition, the Committee expects that the combined salable carry-in for both classes of spearmint oil will be 780,640 pounds. As such, the combined required salable quantity for the 2024–2025 marketing year is estimated to be 819,360 pounds (1,600,000 pounds trade demand less 780,640 pounds carry-in). Under volume regulation, total sales of spearmint oil by producers for the 2024–2025 marketing year would be held to 2,123,268 pounds (the recommended salable quantity for both classes of spearmint oil of 1,342,628 pounds plus 780,640 of carry-in).

This total available supply of 2,123,268 pounds should be more than adequate to supply the 1,600,000 pounds of anticipated total trade demand for spearmint oil. In addition, as of May 31, 2023, the total reserve pool for both classes of spearmint oil stood at 1,081,197 pounds. That quantity is expected to remain relatively unchanged over the course of the 2023–2024 marketing year, with current Committee reserve pool estimates totaling 1,082,744 pounds on May 31, 2024. Should trade demand increase unexpectedly during the 2024–2025 marketing year, reserve pool spearmint oil could be released into the market to supply that increase in demand.

The recommended allotment percentages, upon which 2024–2025 marketing year annual producer allotments are based, are 29 percent for Scotch spearmint oil and 26 percent for Native spearmint oil. Without volume regulation, producers would not be held to these allotment levels and would be able to sell unrestricted quantities of spearmint oil.

The AMS econometric model used to evaluate the Far West spearmint oil market estimated that the season average producer price per pound (for both classes of spearmint oil) would decline about $1.55 per pound without volume regulation. The surplus situation for the spearmint oil market that would exist without volume regulation in the 2024–2025 marketing year also would likely dampen prospects for improved producer prices in future years because of the excessive buildup in stocks.

In addition, spearmint oil prices would likely fluctuate with greater amplitude in the absence of volume regulation. The coefficient of variation, or CV (a standard measure of variability), of Far West spearmint oil producer prices for the period 1980–2022 (the years in which the Order has been in effect, and for which NASS data is available), is 24 percent, compared to 49 percent for the 20-year period (1960–1979) immediately prior to the establishment of the Order. Since higher CV values correspond to greater variability, this is an indicator of the price-stabilizing impact of the Order.

The use of volume regulation allows the industry to fully supply spearmint oil markets while avoiding the negative consequences of over-supplying these markets. The use of volume regulation is believed to have little or no effect on consumer prices of products containing spearmint oil and would not result in fewer retail sales of such products.

The Committee discussed alternatives to the recommendations contained in this rule for both classes of spearmint oil. The Committee rejected the idea of not regulating volume for either class of spearmint oil because of the severe, price-depressing effects that are more likely to occur without volume regulation. The Committee also discussed and considered salable quantities and allotment percentages that were above and below the levels that were eventually recommended for both classes of spearmint oil. Ultimately, the action recommended by the Committee was to reduce the allotment percentage and salable quantity for both Scotch spearmint oil and Native spearmint oil from the levels established for the 2023–2024 marketing year.

As noted earlier, the Committee's recommendation to establish salable quantities and allotment percentages for both classes of spearmint oil was made after careful consideration of all available information including: (1) The estimated quantity of salable oil of each class held by producers and handlers; (2) the estimated demand for each class of oil; (3) the prospective production of each class of oil; (4) the total of allotment bases of each class of oil for the current marketing year and the estimated total of allotment bases of each class for the ensuing marketing year; (5) the quantity of reserve oil, by class, in storage; (6) producer prices of oil, including prices for each class of oil; and (7) general market conditions for each class of oil, including whether the estimated season average price to producers is likely to exceed parity.

Based on its review, the Committee believes that the salable quantities and allotment percentages recommended would achieve the objectives sought. The Committee also believes that, should there be no volume regulation in effect for the upcoming marketing year, the Far West spearmint oil industry would return to the pronounced cyclical price patterns that occurred prior to the promulgation of the Order. As previously stated, annual salable quantities and allotment percentages have been issued for both classes of spearmint oil since the Order's inception. The salable quantities and allotment percentages proposed herein are expected to facilitate the goal of maintaining orderly marketing conditions for Far West spearmint oil for the 2024–2025 and future marketing years.

This proposed rule would establish the salable quantities and allotment percentages for Scotch and Native spearmint oil produced in the Far West during the 2024–2025 marketing year. Costs to producers and handlers, large and small, resulting from this proposal are expected to be offset by the benefits derived from a more stable market and increased returns. The benefits of this proposed rule are expected to be equally available to all producers and handlers regardless of their size.

The Committee's meeting was widely publicized throughout the spearmint oil industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the October 11, 2023, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit comments on this proposed rule, including the regulatory and informational impacts of this action on small businesses.

In accordance with the Paperwork Reduction Act of 1995, (44 U.S.C. Chapter 35), the Order's information collection requirements have been previously approved by OMB and assigned OMB No. 0581–0178, Vegetable and Specialty Crops. No changes in those requirements would be necessary as a result of this proposed rule. Should any changes become

necessary, they would be submitted to OMB for approval.

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

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

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

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

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

A 30-day comment period is provided to allow interested persons to respond to this proposed rule. All written comments timely received will be considered before a final determination is made on this rule.

List of Subjects in 7 CFR Part 985

Marketing agreements, Oils and fats, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Agriculture Marketing Service proposes to amend 7 CFR part 985 as follows:

PART 985—MARKETING ORDER REGULATING THE HANDLING OF SPEARMINT OIL PRODUCED IN THE FAR WEST

■ 1. The authority citation for 7 CFR part 985 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. Revise § 985.233 to read as follows:

§ 985.233 Salable quantities and allotment percentages—2023–2024 marketing year.

The salable quantity and allotment percentage for each class of spearmint oil during the marketing year beginning on June 1, 2023, shall be as follows:

(a) Class 1 (Scotch) oil—a salable quantity of 772,704 pounds and an allotment percentage of 34 percent.

(b) Class 3 (Native) oil—a salable quantity of 1,034,492 pounds and an allotment percentage of 40 percent.

■ 3. Revise § 985.234 to read as follows:

§ 985.234 Salable quantities and allotment percentages—2024–2025 marketing year.

The salable quantity and allotment percentage for each class of spearmint oil during the marketing year beginning on June 1, 2024, shall be as follows:

(a) Class 1 (Scotch) oil—a salable quantity of 663,648 pounds and an allotment percentage of 29 percent.

(b) Class 3 (Native) oil—a salable quantity of 678,980 pounds and an allotment percentage of 26 percent.

§§ 985.235 through 985.238 [Removed]

■ 4. Remove §§ 985.235 through 985.238.

Erin Morris,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2024–01247 Filed 1–24–24; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 21

[Docket No.: FAA–2024–0159; Notice No. 24–10]

RIN 2120–AL87

Disclosure of Safety Critical Information

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This proposed rule would implement certain mandates in the Aircraft Certification, Safety, and Accountability Act of 2020 by requiring applicants for, and holders of, new and amended transport category airplane type certificates to submit, and subsequently continue to disclose, certain safety critical information to the FAA. The proposed rule would also require all applicants for type certificates, including new, amended, and supplemental type certificates, to submit a proposed certification plan to the FAA.

DATES: Send comments on or before March 25, 2024.

ADDRESSES: Send comments identified by docket number FAA–2024–0159 using any of the following methods:

- *Federal eRulemaking Portal:*
- Go to *www.regulations.gov* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30; U.S. Department of Transportation (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 the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Susan McCormick, Systems Standards, Product Policy Management, Policy and Standards Division, Aircraft Certification Service, Federal Aviation Administration, 26805 East 68th Ave., Denver, CO 80249–6339; telephone (206) 231–3242; email *susan.mccormick@faa.gov*.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Executive Summary

This proposed rule would implement certain mandates of section 105 of the Aircraft Certification, Safety, and Accountability Act [1] (ACSAA). It proposes to require applicants for, and holders of, type certificates (TCs), including new and amended but not including supplemental type certificates (STCs), for a transport category airplane covered under part 25 of title 14, Code of Federal Regulations (14 CFR), to submit, and subsequently continue to disclose, certain safety critical information to the FAA. Applicants would be required to submit such information as part of a certification plan.

A certification plan would therefore be required, by regulation, for all applicants for TCs, including STCs, and would be required to include proposed milestones. After the FAA agrees to the certification plan, applicants would be required to keep it updated throughout the certification process.

This proposal also includes requirements applicable to certain holders of TCs. Holders of transport category airplane TCs covered under part 25 would be required, within 90 days of the effective date of a final rule, to submit certain safety critical information, if known and not previously submitted. Such holders would thereafter be required to continue to disclose such information upon discovery. While TC holders already submit much of this information via requirements found in §§ 21.3 and 183.63, this rule would require specific delineation of the safety critical information by the holder.

Because the FAA's proposal would largely align the new submittal and disclosure requirements for TC applicants and holders with existing certification and oversight practices and require holders only to submit known and previously-undisclosed information, the incremental costs of the proposal would be minimal. The FAA has found potential benefits from the proposal due to the projected enhancement of the identification, and the agency's receipt of, safety critical information.

II. Background

A. Congressional Mandate

On December 21, 2020, Congress passed the Consolidated Appropriations Act of 2021, which included the Aircraft Certification, Safety, and Accountability Act (Division V, Title 1). Section 105 of the Act was codified in title 49 U.S.C. 44704(e) (2021). Section 105 instructs the FAA to require the submittal, and subsequent ongoing disclosure, of certain information related to TCs for transport category airplanes covered under part 25 of title 14.

Section 105(e)(1), now 49 U.S.C. 44704(e)(1), prompts the FAA to require an applicant for, or holder of, a TC for a transport category airplane to submit safety critical information to the FAA. That section defines five categories of required safety critical information, as summarized below. It allows the FAA to set the form, manner, and time of the submittal.

Section 105(e)(1)'s requirements are accompanied by certain caveats. First, as noted above, it applies to only those TCs for transport category airplanes that are ''covered under part 25 of title 14.'' Second, the section states that the required submittals are to be made ''(N)otwithstanding a delegation described in section 44702(d).'' [2] Third, section 105 defines the transport airplane type certificatess that are subject to its requirements as those for ''new or amended'' certificates, but excludes STCs.

Section 105 also directs certain ''Ongoing Communications.'' Specifically, Section 105(e)(2)(A) instructs the FAA to require that an applicant for, or holder of, a transport airplane type certificate disclose to the FAA any newly discovered information, or any design or analysis change, that would materially alter the applicant or holder's prior submission of safety critical information to the FAA under section 105(e)(1). As with the initial disclosure requirement, this section allows the FAA to set the form, manner, and time of the communication. Section 105(e)(2)(b) directs the FAA to establish milestones throughout the certification process at which the systems of a proposed transport category airplane design will be assessed. These required assessments must determine whether a change made to a system during the certification process should prompt the FAA to consider the system as novel or unusual.

Section 105 sets forth five categories of safety critical information that applicants or holders must submit and disclose. These categories generally relate to information about the proposed design's potential to affect the flightcrew's ability to control the airplane, and about the analysis of potential hazards that could be posed by the design. The following paragraphs summarize the five categories of safety critical information.

(1) Details, functions, and failure modes of any system that, without being commanded by the flightcrew, could command the operation of a function or feature that is necessary for control of the airplane, or could affect its flight path or airspeed.

(2) Details, functions, failure modes, and mode annunciations about the transport category airplane's autopilot and autothrottle systems.

(3) Failures or operating conditions that the TC applicant or holder anticipates or has concluded would result in a hazardous or catastrophic outcome.

(4) Any adverse handling quality that, without adding flight control augmenting software to the airplane design, would result in a failure to meet the requirements of FAA regulations.

(5) A system safety assessment with respect to any system described in one of the first two categories (*i.e.,* flight controls, and autothrottle/autopilot), or with respect to a system or component whose failure or erroneous operation could result in a hazardous or catastrophic outcome.

[1] Division V, title 1 of Consolidated Appropriations Act, 2021. Public Law 116–260 (Dec. 27, 2020).

[2] Section 44702(d) of title 49 allows the Administrator to delegate certain matters related to type certificates and other certificates.

B. Regulatory Background (FAA Certification and Oversight Processes)

The FAA reviews applicants' proposed designs of products such as airplanes and engines, and, if it finds that the design meets regulatory standards, issues a design approval known as a ''type certificate.'' For transport category airplanes, which are used by air carriers to transport the public in scheduled service, the FAA reviews proposed designs primarily using the standards in 14 CFR part 25. Part 25 replaced part 4b of the Civil Air Regulations in 1965.[3] The FAA provides applicants with suggested, but optional, means of compliance with many design standards via the publication of guidance documents such as advisory circulars (AC).

After obtaining a TC for a transport category airplane from the FAA, most TC holders obtain (or seek to amend) a production certificate, which the FAA issues after the manufacturer proves that it is capable of repeatedly building the product according to its approved design. After an individual aircraft is built, the FAA issues an airworthiness certificate after finding that the aircraft conforms to its design and is in a condition for safe operation.

1. Relevant Part 25 Design Standards

Several part 25 design standards for transport category airplanes are relevant to the safety critical information that Congress has defined, and directed the FAA to require from, TC applicants and holders.

a. System Safety Assessment

To ensure the reliability of proposed designs for transport category airplanes, the FAA requires applicants to analyze the potential effects that failures and malfunctions could have on the airplane and its flightcrew. Among the FAA's reliability regulations for transport category airplanes is § 25.1309, which generally requires the likelihood of a failure to be inversely proportional to its potential effect. Specifically, it requires that any failure condition which could cause the loss of the airplane (a ''catastrophic'' failure condition) to be so unlikely as to never occur during the expected lifetime of all airplanes of that model (*i.e.,* ''extremely improbable'' with an associated per hour failure rate of 10^{-9}, or less likely than one event per 10^{9} (billion) flight hours).[4] Section 25.1309 also requires that failure conditions which are not catastrophic, but which nevertheless could reduce the capability of the airplane or the ability of its flightcrew to cope with adverse operating conditions (a ''major'' failure condition), to be no more likely than improbable (an associated per-hour failure rate between every 10^{-9} and 10^{-5} flight hours).[5] The requirement to analyze these catastrophic and major failure conditions, and thus submit that information to the FAA, has been in place since 1970.[6]

An FAA-approved means of compliance with 14 CFR 25.1309 is AC 25.1309–1A, *System Design and Analysis* (June 21, 1988).[7] This AC divides the foregoing failure conditions into three categories, aligning their severity with their likelihood: (1) Catastrophic (which may be no more likely than 10^{-9}, or extremely improbable); (2) Major (between 10^{-9} and 10^{-5}, or improbable); and (3) Minor, which are unregulated for transport category airplanes and may be probable (more likely than 10^{-5}). An additional Aviation Rulemaking Advisory Committee (ARAC)[8]-recommended version[9] of this guidance, known as the ''Arsenal'' version, divides the ''major'' category into two categories of failures: those that are ''hazardous'' (from 10^{-9} to 10^{-7}) and those that are ''major'' (from 10^{-7} to 10^{-5}).[10] Some applicants use the guidance in this version when developing their system safety assessments (SSA), and the FAA commonly accepts such assessments as a means of showing that the proposed design complies with § 25.1309.

In some cases, the applicant submits the SSA to a designee of the FAA. Designees of the FAA can be individual or organizational. Organizational designees are known as ODAs because the FAA has granted them ''organization designation authorization.''[11] Thus, an applicant may be submitting its SSA and other compliance information to an entity other than the FAA itself, if the FAA has authorized that entity to make a finding of compliance on the FAA's behalf.

b. Function and Installation of Equipment

The FAA's reliability standards for transport category airplanes certified under part 25 also include § 25.1301(a)(4), which requires that each item of installed equipment on the airplane function properly when installed. Implementing policy for § 25.1301 is included in several ACs, such as AC 20–174, *Development of Civil Aircraft and Systems,* and AC 25.1329–1, *Approval of Flight Guidance Systems.*

c. Other Relevant Part 25 Design Standards

Additional part 25 standards of potential relevance to safety critical information as defined by Congress, are § 25.143, general flight maneuvers; § 25.672, which governs stability augmentation and automatic and power-operated systems; § 25.1322, for flightcrew alerting; and § 25.1329, which governs flight guidance systems. The foregoing part 25 regulations, which current applicants for transport category airplane TCs must show that their proposed design complies with,[12] are pertinent to the ACSAA section 105 requirements for applicants and holders of TCs for transport category airplanes to submit, and continue to disclose, certain safety critical information.

2. Applicant Certification Plans

An applicant has 5 years, from the date of application, to obtain FAA approval of the applicant's proposed transport category airplane TC, or change to such certificate.[13] To ensure that necessary information about an applicant's project is submitted in time for the FAA to adequately review, to establish an agreed-upon schedule including milestones, and to identify potential issues, applicants submit a proposed certification plan for their project,[14] at the time of application, to

[3] 29 FR 18289.

[4] AC 25.1309–1A, System Design and Analysis (June 21, 1988), page 15, paragraph 10.b.(3), available in the docket and at *drs.faa.gov.*

[5] AC 25.1309–1A, page 15, paragraph 10.b.(2), available in the docket and at *drs.faa.gov.*

[6] Amendment 25–23, 35 FR 5665.

[7] Available in the docket.

[8] The ARAC was created under the Federal Advisory Committee Act (FACA), in accordance with title 5 of the United States Code (5 U.S.C. App. 2) to provide advice and recommendations to the FAA concerning rulemaking activities, such as aircraft operations, airman and air agency certification, airworthiness standards and certification, airports, maintenance, noise, and training.

[9] The Arsenal version is a draft revision of AC 25.1309–1A. It was developed by the ARAC Systems Design and Analysis Harmonization Working Group (SDAHWG). It is in the docket for this rulemaking as part of the SDAHWG recommendation, Task 2-System and Analysis Harmonization and Technology Update, pp. 61–99.

[10] The FAA has proposed to update 14 CFR 25.1309, including changes seeking to ensure that applicants protect the airplane from the effects of the combination of two failures, the first of which is undetected until a second failure occurs. Docket No. FAA–2022–1544, available at *regulations.gov.*

[11] See subpart D of 14 CFR part 183.

[12] Per 14 CFR 21.20 and 21.21.

[13] 14 CFR 21.17(c) and 21.101(e).

[14] Certification plans are submitted by nearly all project applicants, because the plans are a useful tool for both the FAA and industry. FAA Order 8110.4C provides information on their use. Also, the FAA and industry jointly developed both the The FAA and Industry Guide to Product Certification (*i.e.,* Certification Process Guide

Continued

the FAA.[15] A certification plan includes several categories of information.[16] Such information includes general information about the proposed design, but also specific information such as a description of how compliance will be shown, a list of the documentation that the applicant plans to use to show compliance, and the applicant's expected certification date. Applicants also generally keep this information updated throughout the development of their project, so that they can show compliance with FAA design standards, and so that the FAA has correct information to make the findings of compliance that are necessary to issue the requested TC.

3. Disclosure of Novel or Unusual Design Features

Since each proposal for an original or amended TC is different, and the designs of modern transport category airplanes are complex, proposed designs will inevitably present multiple issues, whether technical, regulatory, or administrative, that require a heightened degree of analysis by the FAA and engagement with the applicant. The FAA analyzes such issues via the development of issue papers.[17]

If a proposed design feature is novel or unusual (*i.e.,* it was not envisaged by FAA design standards) and therefore, the FAA's design standards are inadequate or inappropriate for that feature, the FAA addresses that feature with a rule of particular applicability known as a ''special condition.'' [18] Though the goal is to identify and address novel or unusual design features early in the certification process, regular discussions (*e.g.,* familiarization briefings, compliance planning meetings, etc.) between the applicant and the FAA are necessary to plan and execute certification activities.

4. Existing 14 CFR 21.3 Reporting of Failures, Malfunctions, and Defects

In 1969, the FAA noted that while air carriers were required to notify the FAA of certain safety issues occurring on their airplanes and engines, it is the manufacturers of those products who have the

''expertise . . . to evaluate the seriousness of the failure, defect, or malfunction, and to determine the extent to which (it) may present a hazard to flight.'' [19]

The FAA thus proposed, and subsequently issued, a rule—14 CFR 21.3—requiring manufacturers to promptly [20] inform the FAA of the occurrence of a host of listed failures, defects, and malfunctions. The specific items to be disclosed have not substantively changed in the half-century since the rule was issued.

Thus, after the FAA approves a proposed design via the issuance of a TC, and the manufacturer builds its product according to that approved design, and the individual aircraft receives a certificate of airworthiness and enters service, the manufacturer's obligation to ensure the airworthiness of its product continues. The manufacturer must report certain information to the FAA in accordance with § 21.3. If the FAA determines a design change is required to correct an unsafe condition in a product, the manufacturer is required by § 21.99 to submit a proposed change to its design, and the FAA may mandate this change via part 39 of 14 CFR by the issuance of an airworthiness directive (AD).

5. Other Ongoing Disclosure Requirements Applicable to TC Holders

Nearly every domestic holder of an original or amended TC for a part 25 transport category airplane in the U.S. is also the holder of an ODA.[21] ODA holders are required by current regulations to submit and disclose several categories of safety information to the FAA. Two categories are of particular pertinence to the requirements that this NPRM proposes to establish. Section 183.63(b)(1) requires ODA holders, without prompting by the FAA, to notify the agency of any ''condition in a product, part or appliance that could result in a finding of unsafe condition by the Administrator.'' Section 183.63(b)(2) requires ODA holders to notify the agency of products not meeting airworthiness requirements.

FAA policy provides guidance on the details of the provision of such information.[22] The ODA holder must provide continued support for approvals or certificates issued under ODA procedures in accordance with § 183.63. Procedures for monitoring service information, investigation, and FAA notification must be included in the ODA holder's FAA-approved procedures manual, in accordance with § 183.53(c)(13).

C. Factual Background (Boeing 737 MAX[23] *Accidents and Ensuing Investigations)*

The following information, due to its inclusion or reference in investigations by Congressional committees, was pertinent to the development of the Congressional requirements that this NPRM proposes to implement.[24]

The FAA approved the amended TC for the Boeing Model 737–8 in 2017. On October 29, 2018, a Boeing Model 737–8 airplane operated by Lion Air (Lion Air Flight 610) was involved in an accident after takeoff in Indonesia, resulting in 189 fatalities. The accident was investigated by the Indonesian authorities (Komite Nasional Keselamatan Transportasi (KNKT)) [25] with assistance from the National Transportation Safety Board (NTSB), the FAA, the manufacturer, and the operator.

On March 10, 2019, a Boeing Model 737–8 airplane operated by Ethiopian Airlines (Ethiopian Airlines Flight 302) was involved in an accident after takeoff in Ethiopia, resulting in 157 fatalities. The accident was investigated by the Ethiopian Accident Investigation Bureau [26] with assistance from the NTSB, the FAA, the French Bureau of Enquiry and Analysis for Civil Aviation Safety, the European Union Aviation Safety Agency, the manufacturer, the operator, and the Ethiopian Civil Aviation Authority.

The investigations of these accidents generally found that erroneous data from one of the airplane's two angle-of-attack sensors could cause the maneuvering characteristics augmentation system (MCAS), a function of the airplane's flight control software, to command repeated airplane nose-down trim of the horizontal stabilizer, and could result in flightdeck

(CPG)) and the Enhanced Project Specific Certification Plan (ePSCP) Guide (*i.e.,* ePSCP Guide) as a means to communicate project information via certification plans.

[15] Section 2–3 of FAA Order 8110.4C.

[16] Id. at para. 2–3(d).

[17] See FAA Order 8110.4C, at para 2–4(g); FAA Order 8110.112; and AC 20–166B.

[18] 14 CFR 21.16.

[19] 34 FR 5441.

[20] Within 24 hours, or by the end of the next business day. 14 CFR 21.3(e)(1).

[21] The exception is Lockheed Martin Corporation. The Boeing Company, Gulfstream Aerospace Corp., Textron Aviation Inc., Piper Aircraft, Inc., and LearJet, Inc. are all currently ODA holders.

[22] FAA Order 8100.15B at section 3–18.

[23] When the term ''737 MAX'' is used in this NPRM, it is referring to the Boeing Model 737–8 and –9 airplanes.

[24] See, *e.g.,* House Report H.R. 8408, H. Rept. 116–579—AIRCRAFT CERTIFICATION REFORM AND ACCOUNTABILITY ACT | *Congress.gov* | Library of Congress. *Available in the docket.*

[25] Preliminary KNKT.18.10.35.04 Aircraft Accident Investigation Report, dated November 2018, and Final KNKT.18.10.35.04 Aircraft Accident Investigation Report, dated October 2019, can be found in the docket.

[26] Report No. AI 01/19, Interim Investigation Report on Accident to the B737–8 (MAX) Registered ET–AVJ operated by Ethiopian Airlines on 10 March 2019, dated March 9, 2020, of the Federal Democratic Republic of Ethiopia Ministry of Transport Aircraft Accident Investigation Bureau, can be found in the docket.

effects that collectively could affect the ability of the flightcrew to accomplish continued safe flight and landing.[27]

Flightdeck effects common to both accidents were differences in the altitude and airspeed displayed for each pilot and persistent stall warning. In the Ethiopian accident, the significant difference in airspeeds resulted in the autothrottle becoming inoperative, thus leaving the thrust levers at the current takeoff thrust setting. The throttles remained at takeoff power throughout the flight, resulting in high airspeed, which made it more difficult for the flightcrew to control the airplane.

The Boeing Models 737–8 and 737–9 were certified via amendment of the existing Boeing Model 737 TC and were the first of a set of derivative models collectively marketed by Boeing as the 737 MAX. To certify the 737 MAX airplanes with larger and relocated engines, Boeing added MCAS to the airplane's flight control software so that the airplane handling qualities would comply with FAA design standards.[28]

Following the accidents, the FAA mandated corrective actions to address the unsafe condition related to MCAS on the 737 MAX. The actions included requiring changes to the airplane's flight control software related to MCAS and related flightcrew procedures. These changes were developed by Boeing and its ODA unit pursuant to §§ 21.3, 21.99 and 183.63, and, after a public comment process, were required by the FAA via the issuance of an AD.[29]

1. Investigations of Certification of 737 MAX and FAA Certification Processes

The two accidents also led to investigations of how the Boeing 737 MAX airplane had been certified by the FAA; of the FAA's delegation of certain certification functions to the Boeing ODA; and of how the FAA certifies transport category airplanes in general. These investigations included reviews by the NTSB [30] and the U.S. Department of Transportation's Office of Inspector General (in June 2020 [31] and February 2021 [32]); a Joint Aviation Technical Review conducted by a panel of foreign civil aviation authorities; [33] and reviews by the Aviation Subcommittee of the U.S. House Committee on Transportation and Infrastructure [34] and the U.S. Senate Committee on Commerce, Science, and Transportation.[35] The FAA also performed and published its own technical summary when addressing the unsafe condition.[36]

2. Disclosure of Information During Certification of 737 MAX

The investigations of the certification of the 737 MAX generally found that Boeing, as the applicant for an amended TC, inadequately disclosed certain information about its proposed design, and its potential safety risks, to the FAA during the certification process.[37] This information included the manufacturer's increase of the authority (from 0.55 to 2.5 degrees of stabilizer movement) and circumstances (from high-altitude only, to relatively low altitude and airspeed) of the flight-control software's automatic (without pilot input) activation of MCAS to move the horizontal stabilizer of the airplane.[38]

The investigations also generally found that Boeing's hazard and safety assessments of these systems on the 737 MAX did not adequately account for the severity of hazard that MCAS posed.[39] According to the investigations, the hazard classifications for MCAS failures, given that system's potential reliance on a single angle-of-attack indicator, should have been catastrophic with an SSA that included commensurate rigor.[40]

The investigations found that the company's SSAs that addressed MCAS considered the hazard from a single activation, but did not address the hazard that could be presented by repeated activations of MCAS.[41]

D. Legislation Resulting From Reviews of the 737 MAX

After the foregoing reviews of the FAA's certification of the 737 MAX, in December of 2020 Congress passed the Aircraft Certification, Safety, and Accountability Act (ACSAA).[42] ACSAA imposed many new requirements on the FAA, including those of section 105.

Section 105's provisions generally seek to ensure that information about the potential hazards of a transport category airplane's systems is adequately disclosed by applicants for design approval, so that such information can be adequately evaluated by the applicant and the FAA.

Section 105 does not apply these requirements only to ''applicants,'' as it does certain other provisions. Rather, it also applies the initial submittal, and ongoing disclosure requirement, to the ''holder of'' a type certificate for a transport category airplane covered under part 25.

III. Authority for This Rulemaking

The FAA's authority to issue rules on aviation safety is found in title 49 of the United States Code. Subtitle I, section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the FAA's authority.

This proposed rulemaking is issued under the authority described in subtitle VII, part A, subpart III, section 44701, General Requirements. Under that section, the FAA is charged with prescribing regulations and minimum standards for the design and performance of aircraft that the Administrator finds necessary for safety in air commerce. This proposed regulation is within the scope of that authority.

Authority for this particular rulemaking is derived from section 105(a) of ACSAA. Section 105, ''Disclosure of Safety Critical Information,'' of ACSAA directs the Administrator of the FAA to require an applicant for, or holder of, a TC for a transport category airplane covered under 14 CFR part 25 to submit and disclose certain safety critical information to the FAA.

IV. Discussion of the Proposal

In this rulemaking, the FAA proposes to impose, as required by section 105(a),

[27] See, *e.g.,* p. 7 of NTSB ASR–19–01, Assumptions Used in the Safety Assessment Process and the Effects of Multiple Alerts and Indications on Pilot Performance, dated September 19, 2019, (''ASR–19–01''), available in the docket.

[28] See, *e.g.,* pp. 23–24 of *Summary of the FAA's Review of the Boeing 737 MAX* (November 20, 2020), available in the docket.

[29] 85 FR 74560.

[30] *System Safety and Certification Specialist's Report,* DCA19RA017, dated August 21, 2019, and the aforementioned ASR–19–01, available in the docket.

[31] Timeline of Activities Leading to the Certification of the Boeing 737 MAX 8 Aircraft and Actions Taken After the October 2018 Lion Air Accident, June 2020, (''OIG I''), available in the docket.

[32] Weaknesses in FAA's Certification and Delegation Processes Hindered Its Oversight of the 737 MAX 8, U.S. Department of Transportation Office of Inspector General, February 2021, (''OIG II'') available in the docket.

[33] Boeing 737 MAX Flight Control System Joint Authorities Technical Review, October 2019, (''JATR''), available in the docket.

[34] The Design, Development, & Certification of the Boeing 737 MAX, Majority Staff of the U.S. House Committee on Transportation and Infrastructure, (''House Committee Report''), available in the docket.

[35] *Aviation Safety Oversight,* U.S. Senate Committee on Commerce, Science, & Transportation, December 2020, (''Senate Committee Report''), available in the docket.

[36] As referenced at footnote 28.

[37] See, *e.g.,* JATR at pp. VII, 13, and 24–25; House Report at p. 57.

[38] See, *e.g.,* House Report at p. 103; OIG I at p. 20; OIG II at p. 16.

[39] See, *e.g.,* JATR at p. 30–31; OIG I at p. 25.

[40] See, *e.g.,* House Report at pp. 13 and 29; JATR at pp. 31 and 33–34.

[41] See, *e.g.,* House Report at pp. 21, 109, and 116; JATR at pp. 33–34.

[42] Public Law 116–260 (ACSAA).

the initial submittal and continuing disclosure requirements of that section on applicants and holders of TCs, including amended TCs, for transport category airplanes covered by 14 CFR part 25.

A. Submittal of Proposed Certification Plans by Applicants

In this NPRM, the FAA proposes a new § 21.15(d) that would require applicants for new or amended TCs to submit proposed certification plans to the FAA, and that a new § 21.113(c) would require the same for applicants for new or amended STCs. Consistent with current practice, such plans would be required to be submitted with the application. The proposed certification plans would be required to include planning information; proposed milestones; and, for transport category airplane applications, subsequent updates to include the safety critical information that ACSAA requires the FAA to obtain from such applicants.

Under current practices, applicants typically submit a variety of information with their proposed certification plans, as described in FAA Order 8110.4C, *Type Certification* (for applicants) and 8100.15B, *Organization Designation Authorization Procedures* (for ODA holders) and associated materials such as *The FAA and Industry Guide to Product Certification* (*i.e.,* Certification Process Guide [43] (CPG)) and *Enhanced Project Specific Certification Plan (ePSCP) Guide* (*i.e.,* ePSCP Guide).[44] However, to provide transport category airplane applicants with a familiar vehicle for the initial submittal of safety critical information, the FAA proposes to establish a performance-based regulatory requirement for certification plans.

Thus, proposed certification plans would be required, via a regulatory performance standard, to contain sufficient information for the applicant's showings of compliance, and the FAA's findings, to be timely and accurately made. The provided information would be substantially the same as described in the aforementioned FAA guidance documents. The information provided in the certification plan would need to be sufficiently developed, and detailed, to enable the FAA to determine its level of involvement for each compliance showing and finding, ensure prompt submittal of all necessary compliance data, and allow all showings and findings to be timely and accurately made for each project.

The FAA proposes that applicants would be required to submit these proposed certification plans in a manner consistent with current practices. Thus, applicants would be required to submit certain preliminary key project information, specifically the applicant's proposed certification basis; [45] a compliance checklist that identifies the means by which the applicant plans to show that it complies with FAA regulations, and that identifies all deliverables [46] that the applicant anticipates will be necessary to show compliance; and a proposed project schedule with milestones. Applicants for transport category airplane new or amended, but not supplemental, type certificates would be required to include their expected certification date as part of this proposed schedule. The certification plan would also be required to identify any other information that the applicant anticipates will be necessary to enable the applicant's showings and certifying statement (per § 21.20) and the FAA's findings of compliance (per § 21.21(b)) to be timely and accurately made.

Under current practices, it is common for applicants to describe safety critical information as deliverables within the compliance checklist, and include preliminary system safety assessment sections and referenced documentation. The FAA anticipates that this practice would continue, under the new standard for the contents of proposed certification plans. FAA Order 8110.4C and the ePSCP Guide would still provide applicants with additional information and best practices for submittals to meet the new regulatory requirements.

B. Milestone Component of Applicant's Proposed Certification Plan

TC applicants generally propose a project schedule as part of their certification plan. This proposed project schedule includes key events, called milestones. Typical milestones include familiarization meetings, submittal of issue papers (to develop the resolution of issues that may necessitate determinations such as special conditions, ELOSs, and exemptions), type board meetings, first airplane flight, data submittal requirements, inspection/conformity dates, and associated test dates.

In addition to the typical milestones that the applicant and the FAA use to plan the development and review of the project, the proposed schedule would, for applications for new or amended TCs for transport category airplanes, need to include sufficient milestones to enable compliance with requirements of the proposed rule. Such milestones would be consistent with current practices, and would include dates for submitting certain compliance documents such as safety assessments (including functional hazard assessments, fault tree analyses, the requirements validation plan, software development documents, and minimum training requirements [47] and other data to support the flight standardization board report and revisions (as needed).

Under current practices, an applicant's initial proposed certification plan also necessitates subsequent updates. These planned updates are, and under this proposal would continue to be, included as milestones within the proposed certification plan. This would establish ''gates'' throughout the certification process at which a proposed airplane system will be assessed for changes and impacts to the overall certification approach (*e.g.,* certification basis, traceability, compliance dependencies, means of compliance, etc.) for the project.

In summary, the foregoing milestones would be used to monitor, review, and assess the progress of the proposed airplane design and systems toward compliance, jointly by the FAA and the applicant.

C. Updating Transport Category Airplane Certification Plans With Safety Critical Information

This proposal would require applicants for new and amended TCs for transport category airplanes to submit safety critical information as an update to the certification plan that proposed § 21.15(d) would require. Proposed § 21.15(e) would require that this update to the applicant's certification plan include or describe all of the safety critical information set forth in proposed § 21.1(c). An explanation of each of these five categories of safety critical information is set forth later in this proposal.

Regarding the level of detail to be provided with the submittal of safety critical information with the

[43] Available in the docket and at *www.faa.gov/sites/faa.gov/files/aircraft/air_cert/design_approvals/transport/CPI_guide.pdf.*

[44] Available in the docket and at *www.faa.gov/sites/faa.gov/files/aircraft/air_cert/design_approvals/dah/ePSCP_guide.pdf.*

[45] A proposed certification basis includes applicable regulation paragraphs with amendment levels, and the potential need for the FAA to issue exemptions, equivalent level of safety findings (ELOSs), and special conditions. See FAA Order 8110.4C at section 2–3(d).

[46] Per current practices, these would include items such as test plans, reports, analyses (often called ''deliverables'', ''documents'', or ''document deliverables''), and inspections that are necessary to show compliance with the applicable requirements.

[47] 14 CFR 121, subpart N defines operator training programs.

certification plan update under § 21.15(e), the FAA recognizes that the type design for a transport category airplane project may not be sufficiently developed at the time of initial submittal to include a thorough discussion of all safety critical information.

Applicants would be required to describe safety critical information in the update required by proposed § 21.15(e). This safety critical information would be as described elsewhere in this NPRM. The certification plan update would also include the anticipated relevant deliverables that are necessary to accomplish the requirements of the certification plan. This initial submittal of safety critical information with the certification plan update would be one step in the iterative process that builds toward the applicant's eventual compliance showings with certain regulations.

For example, the safety assessment process is often used by applicants to show compliance with certain regulatory design standards that are relevant to the section 105 categories of safety critical information, such as § 25.1309. Common and FAA -accepted means of compliance with that regulation are SAE Aerospace Recommended Practice (ARP)4761, ''Guidelines and Methods for Conducting the Safety Assessment Process on Civil Airborne Systems and Equipment,'' AC 25.1309–1A, and the ''Arsenal'' version of AC 25.1309–1A,[48] which include safety assessment techniques. As previously noted in this NPRM, the ''Arsenal'' version of AC 25.1309–1A, has been accepted since 2001 when used in conjunction with an equivalent level of safety finding. That AC documents an established means for an applicant to show compliance to regulations, such as § 25.1309, related to safety critical information. Thus, the deliverables provided by these means of compliance are, and under this proposal would continue to be, regularly reviewed at proposed milestones.

The FAA proposes that requiring the submittal of safety critical information, even in preliminary form, at the time of application could be unreasonably early, given the likely state of the proposed design, especially for complex projects or new TCs. Thus, to implement this requirement to submit safety critical information, applicants for new or amended transport category airplane TCs would be required to identify, as part of their initial proposed certification plan, their expected (requested) certification date. This would align with current practice. Then, to ensure that the FAA has adequate time to review the safety critical information, the transport category airplane applicant would be required to submit that safety critical information no later than 6 months prior to the applicant's requested certification date, or within one year of submittal of the application, whichever is earlier. The FAA requests comment on these proposed timeframes.

Section 105 begins with ''Notwithstanding a delegation described in section 44702(d). . .'' Section 44702(d) authorizes the Administrator to delegate, to qualified private persons, certain matters related to the issuance of certificates, including type certificates. Therefore, the FAA proposes in this NPRM that all new submittals, and all ongoing disclosures, of safety critical information, by applicants be made to the FAA itself, not to any individual or organizational designee.

This initial submittal would not end the applicant's obligation to provide safety critical information to the FAA. Section 105 distinguishes between two required obligations: of the initial submittal, and then the ongoing disclosure, of safety critical information.

D. Continuing Disclosure Requirement for New and Amended Transport Category Airplane TC Applications

Proposed § 21.15(f) would require transport category airplane applicants, for the remainder of the certification process, to inform the FAA, within 3 business days of discovery, of any information or proposed design or analysis change that would materially alter[49] their previously-submitted safety critical information.

An example of such a proposed ''design or analysis change'' would be the discovery that a system safety analysis that the applicant previously submitted pursuant to this proposal, or was planned to be used as part of the applicant's showing of compliance with § 25.1309, erroneously misstated the likelihood of a hazard. This disclosure could be the applicant's identification of an error in a fault tree analysis.

The FAA proposes that such design or analysis change would be required to be submitted within 3 days of discovery, rather than later, due to the potential importance of this information to safety and compliance, and to minimize the likelihood that the change delays the project.

E. Submittal Requirement for Holders of Transport Category Airplane TCs Covered Under Part 25

Proposed § 21.3(g) would require each holder (except STC holders) of a transport category airplane TC covered under part 25, within 90 days of the effective date of the final rule, to submit categories of safety critical information, if known and if not previously submitted, to the FAA for each model. The categories of required safety critical information for holders would be the same as for applicants, and would be defined in proposed § 21.1(c).[50]

The FAA does not expect this submittal to be voluminous, or its preparation burdensome or overly time-consuming. First, much of the required safety critical information will have already been submitted to the FAA, through the TC application and certification process. Safety critical information is included in the type design, operating limitations, substantiation documents, and other required information as a part of the TC.

Also, the FAA proposes that holders would be required to submit such information if ''known'' The purpose of this proposed limitation is to clarify that the new submittal requirement would not be intended to prompt all holders of transport category airplane TCs covered under part 25 to reevaluate all of their safety critical information for previously-approved designs, or interview past employees. Rather, safety critical information is ''known'' to the holder if any FAA designee including ODA staff (including administrators and unit members), any current manager[51] or responsible agent of the TC holder, or any employee of the TC holder with authority over or involvement in certification activities has knowledge of the information.

The FAA also proposes that previously-submitted information would not need to be resubmitted by TC holders or ODA holders to the FAA. As noted above, much of this information will have been previously submitted by

[48] See footnote 9.

[49] ''Materially alter'' would mean potentially affecting or negating a compliance showing, a certification assumption (*e.g.,* design, human factors, operational training, etc.), or the FAA's level of involvement (*e.g.,* delegation decisions).

[50] As with the requirement for applicants, athough a supplemental type certificate is a form of type certificate (14 CFR 21.20), per section 105 there would be no requirement for submittal of safety critical information that would be triggered by the holding of STCs covered under part 25, only by the holding of original and amended type certificates.

[51] The FAA intends that ''manager'' would not be limited to persons who supervise other persons, and would also include other persons with managerial duties, including program managers, project managers, risk managers, safety managers, etc.

the holder, as part of the type certification process. While section 105(a) begins with ''[n]otwithstanding a delegation,'' the FAA does not consider that limitation to be retrospective. Thus, the previous submittal to a representative of the FAA [52] that was authorized to make a compliance finding on the agency's behalf, would qualify as having been previously submitted.

The FAA further proposes to limit the scope of this submittal requirement, and the ongoing disclosure requirement described in the next section, to just those transport category airplane TC holders whose airplanes are ''covered under part 25 [of title 14].'' This would make the proposal consistent with the text of section 105. It would thus exclude transport category airplanes that do not have 14 CFR part 25 in their certification basis.

F. Requirement for Subsequent Continuing Disclosure by TC Holders of Transport Category Airplanes Covered Under Part 25

Proposed § 21.3(g), beginning 90 days after the effective date of the proposed rule, would require TC holders, should they become aware of any newly discovered safety critical information, or a design or analysis change that would materially alter [53] any submission to the FAA of the information defined under § 21.1(c), to disclose such information to the FAA within 3 business days of the discovery. Like the mandated submittal of safety critical information by holders, this ongoing disclosure would be required to be made to the FAA itself, not to a designee such as an ODA.

The FAA proposes that the 90-day start date for this ongoing disclosure would logically follow the proposed deadline (within 90 days) for the initial submittal of safety critical information by TC holders. The FAA also considers that 90 days would be sufficient time for transport category airplane TC holders to review their internal procedures and make any necessary revisions in order to facilitate the proposed ongoing disclosure requirements.

[52] The FAA proposes that this allowance would only apply to organizational, not individual, designees. Only submittals that were previously made to Representatives of the Administrator authorized in accordance with 14 CFR part 183, subpart D would qualify.

[53] ''Materially alter'' would mean potentially affecting or negating a compliance showing, impacting a certification assumption (*e.g.,* design, human factors, operational training, etc.), or that would affect, or would have affected, the FAA's level of involvement (*e.g.,* delegation decisions).

G. Interaction of This Proposal With Current Submittal and Disclosure Requirements

As discussed in section B of this NPRM, TC and ODA holders currently submit certain information to the FAA, under the auspices of regulations such as §§ 21.3 and 183.63. Some safety critical information is likely to also prompt reporting under those two regulations. However, under this proposal, a TC holder of an airplane covered under part 25 would not be relieved of any other reporting obligation such as those under § 21.3, and an ODA holder similarly not relieved of any reporting obligation under part 183, as a result of the new obligation, which Congress required the FAA to mandate, to disclose safety critical information. Section 21.3 reports are, as reflected by their precise topics and accelerated timelines, urgent safety matters. Existing part 183 reporting may not characterize the safety critical information as clearly as is needed to implement this statutory mandate. However, the FAA requests comment on how these reporting processes might dovetail with this proposal, for greater efficiency in implementing the Congressional mandate.

Existing § 21.3(e) establishes timeframes for the required submittal of information under § 21.3. Those timeframes are relatively short, due to the likely urgent safety implications of the information. Proposed § 21.3(g) includes timelines appropriate to the submittal of safety critical information. Therefore, as part of the implementation of proposed § 21.3(g), this NPRM proposes a minor revision of § 21.3(e), to exclude the information that would be submitted as part of § 21.3(g) from the requirements of paragraph (e), and to change the title of that section.

H. Explanations of Five Categories of Safety Critical Information

Proposed § 21.1(c) would contain the definitions of the five categories of safety critical information for the purposes of proposed §§ 21.15(e) and (f), and 21.3(g). Each category of safety critical information that the FAA proposes, as required by Congress, to require to be submitted and subsequently disclosed by applicants in proposed § 21.15(e) and (f), and by holders in proposed § 21.3(g), is explained as follows.

1. Uncommanded Operation of Safety Critical Functions and Features

The first category of safety critical information that the FAA, pursuant to Congress' direction, would require applicants and holders to submit and disclose would be all design and operational details, intended functions, and failure modes of any system that, without being commanded by the flightcrew, commands the operation of any safety critical function or feature required for control of the airplane during flight or that otherwise changes the flight path or airspeed of an airplane.

The FAA proposes that the regulatory definition of this category of information would be the same as the statutory definition, except for changing the opening ''Any'' to ''All'' to ensure that all, not just selected, information is provided, and making ''flight crew'' one word for consistency with other parts of 14 CFR.[54] The FAA provides the following explanation of some of the terms in this category of safety critical information.

First, the ''system(s)'' which the FAA proposes would be covered by this requirement include, but are not limited to, flight control systems and other computer (software) controlled systems (*e.g.,* autopilot, stability augmentation, automatic trim, autothrottle (autothrust), envelope protection), whose failure or erroneous activation would present a risk rated hazardous or catastrophic.

A ''safety critical function or feature'' would be one whose failure could be hazardous or catastrophic. This would align with how the FAA has defined safety critical in other contexts, including transport category airplane SSA.[55]

Regarding ''all design and operational details,'' the FAA proposes that such details would be those with relevance to a referenced system's function, failure, or operational suitability. Under current practice, in order to show compliance with §§ 25.1301(a) and 25.1309(a), the submitted information would include sufficient design and operational detail, and description of the intended function, to enable the FAA to assess whether the equipment is of a kind and design appropriate to its intended function and performs its intended function under any operating condition. Section 25.1309(d) requires the applicant to submit an analysis of the possible modes of failure, probability of failures, resulting effects, etc., (*i.e.,* a system safety assessment) to show

[54] The FAA's proposed definitions of safety critical information also include minor, nonsubstantive changes to facilitate regulatory implementation, such as replacing ''14 CFR'' with ''this chapter,'' etc.

[55] Per the ''Arsenal'' version of AC 25.1309–1A, Safety critical for transport category airplanes, means a function, component or system whose failure could be hazardous or catastrophic.

compliance to § 25.1309(b).[56] Thus, applicants for transport category airplane TCs covered under part 25 are already required to submit this information through the certification process.[57]

The FAA notes some overlap between this proposed category of information and the information that § 21.3(c)(11) requires manufacturers to submit to the FAA: ''any . . . flight control malfunction, defect, or failure which causes an interference with normal control of the aircraft for which derogates the flying qualities.'' However, as previously discussed, any such overlap would not obviate the initial submittal and subsequent disclosure requirements that Congress directed the FAA to mandate, not only upon applicants, but also upon holders of transport category airplane TCs.

The FAA anticipates that this category of safety critical information should not be overly difficult or time-consuming for holders to submit or continue to disclose. As previously noted, part 25 transport category airplane TC holders will have disclosed much, if not all, of this information when seeking their original or amended TC. For example, much ''safety critical'' information would have been disclosed as part of showing of compliance with § 25.1309, as described above.

2. Aspects of Autopilot and Autothrottle (Autothrust) Systems

The next category of mandatory safety critical information that the FAA would require applicants and holders to submit and disclose would be all design and operational details, intended functions, failure modes, and mode annunciations of autopilot and autothrottle systems, if applicable.

For purposes of this requirement, the term ''autopilot'' means a function that would provide automatic control of the airplane, typically in pitch, roll, and yaw. The term includes the sensors, computers, power supplies, servo-motors/actuators and associated wiring, necessary for its function. It includes any indications and controllers necessary for the pilot to manage and supervise the system. Any part of the autopilot system that remains connected to the primary flight controls when the autopilot is not in use is regarded as a part of the primary flight controls.[58]

For purposes of this requirement, the term ''autothrottle (autothrust)'' means a function that provides automatic control of the thrust of the airplane. The term includes the sensors, computers, power supplies, servo-motors/actuators and associated wiring, necessary for its function. It includes any indications and controllers necessary for the pilot to manage and supervise the system. Any part of the autothrust that remains connected to the engine controls when the autothrust is not in use is regarded as a part of the engine control system.

For the purposes of this requirement, a ''mode annunciation'' is a function that provides the flightcrew with awareness of the current automation mode, alerts them of any mode changes or failures that could degrade the handling or operational characteristics of the airplane, and may require the flightcrew to alter their primary control strategy. The mode annunciation is included because it is imperative that the flightcrew understand the state of the airplane systems so they can interact with those systems appropriately as they fly the airplane. The FAA posits that Congress included mode annunciation in this category because it is imperative that the flightcrew understand the state of the airplane systems to minimize flightcrew errors and confusion concerning the behavior and operation of the flight guidance system as they fly the airplane.

Although paragraph (B) of section 105(a) did not begin with the term ''any'' or ''all,'' the FAA is proposing that ''all'' such details, failure modes, etc., known to the applicant or holder would be required to be submitted and subsequently disclosed. This is to ensure that all, not just selected, applicable information is provided.

Again, while there may be overlap with § 21.3(c)(11), as discussed in section B of this NPRM, the FAA proposes that this would be an independent requirement.

The FAA again anticipates that this information would not be overly difficult or time-consuming for applicants or holders to submit or disclose, because the compliance document(s) would have been submitted by the applicant as part of its showings of compliance and the company would be highlighting how the discovered information affects that prior showing of compliance with substantive regulations (for example, §§ 25.1301(a) and 25.1309(a), (c), and (d) for certain equipment, systems, and installations; § 25.1322 for flightcrew alerting; and certain paragraphs of § 25.1329 for flight guidance systems).

3. Failures That Could Result in Hazardous or Catastrophic Outcomes

The next category of safety critical information that the FAA proposes that applicants and holders be required to submit and continue to disclose, is all failure or operating conditions that the TC applicant or holder anticipates or has concluded would result in an outcome with a severity level of hazardous or catastrophic.

As previously noted, current FAA guidance for applicants addresses catastrophic failure and operating conditions, but does not explicitly address ''hazardous'' conditions.[59] However, as previously discussed, the ''Arsenal'' version of AC 25.1309–1A does so, and therefore applicants typically address hazardous failure and operating conditions in their SSAs.

''Hazardous'' for purposes of this proposed rule would be the following:

A failure condition that would reduce the capability of the airplane or the ability of the flightcrew to cope with adverse operating conditions to the extent that there would be—

- A large reduction in safety margins or functional capabilities,
- Physical distress or excessive workload such that the flightcrew cannot be relied upon to perform their tasks accurately or completely, or
- Serious or fatal injuries to a relatively small number of persons other than the flightcrew.[60]

''Catastrophic'' for purposes of this rule would be a failure condition that would result in multiple fatalities, usually with the loss of the airplane.[61]

The FAA anticipates that this category of safety critical information would not be overly difficult or time-consuming for applicants or holders to submit or disclose, for several reasons.

First, applicants will submit, and all current TC holders would have submitted, during certification of

[56] 14 CFR 25.1309(b) establishes certain reliability requirements for airplane systems, equipment, and installations.

[57] Section 21.20 requires the applicant to show compliance with all applicable requirements, provide the FAA the means by which such compliance has been shown, and to certify such compliance.

[58] Reference AC 25.1329–1C, appendix B.

[59] AC 25.1309–1A.

[60] For the purpose of performing a safety assessment, a ''small number'' of fatal injuries means one such injury.

[61] A catastrophic failure condition was defined in previous versions of 14 CFR 25.1309, and is currently defined in AC 25.1309–1A as a failure condition that would prevent continued safe flight and landing. Continued safe flight and landing was defined in AC 25.1309–1A as: ''The capability for continued controlled flight and landing at a suitable airport, possibly using emergency procedures, but without requiring exceptional pilot skill or strength.'' Some airplane damage may be associated with a failure condition, during flight or upon landing.'' For the purpose of performing a safety assessment, ''multiple fatalities'' means two or more fatalities.

transport category airplanes with a certification basis after Amendment 25–23,[62] information about failure conditions that would result in outcomes with a severity level of major and catastrophic. New TC applicants include a functional hazard assessment as part of their compliance showings. The FAA anticipates that most if not all of the TC holders whose designs were approved using the ''Arsenal'' version of AC 25.1309–1A as a means of compliance would not have to submit any new information here, unless a compliance assumption or determination has changed which materially alters that assessment. The ''major'' hazard category[63] defined by AC 25.1309–1A is divided into two categories in the ''Arsenal'' version: ''hazardous'' and ''major,'' with corresponding probability requirements of ''extremely remote'' (on the order of $10^{-9} < p \leq 10^{-7}$) and ''remote'' (on the order of $10^{-7} < p \leq 10^{-5}$), respectively. The granular assessment of failure conditions in the ''Arsenal'' version allows for more accurate analysis of highly integrated systems, which perform complex and interrelated functions, particularly through the use of electronic technology and software-based techniques. This more granular categorization also allows for better differentiation of failure effects on flightcrew than the current requirements of § 25.1309(b). The ''hazardous'' category in the ''Arsenal'' version corresponds to the more severe end of the ''major'' category in current § 25.1309(b)(2), which is referred to as ''severe major'' in AC 25.1309–1A. Thus, the FAA is applying the ''Arsenal'' version of hazardous for this proposed rule.

The FAA also notes that the requirement in section 105(a), and thus this NPRM, is intended to prompt the submittal, disclosure, and assessment of potential failure conditions that could have an outcome of hazardous or catastrophic. The FAA invites comment on this issue.

4. Software-Dependent Handling Qualities

The fourth category of safety critical information that the FAA would require applicants and holders to submit and disclose would be any adverse handling quality that fails to meet the requirements of part 25 of this chapter without the addition of a software system to augment the flight controls of the airplane to produce compliant handling qualities.

For purposes of this rulemaking, and consistent with FAA policy, an ''adverse'' handling quality would be one that does not meet the applicable regulations on handling qualities in part 25. Some of the ''applicable regulations'' for purposes of this requirement would be the Controllability and Maneuverability regulations in subpart B of part 25; § 25.672, Stability augmentation[64] and automatic and power-operated systems; and § 25.1309(d), Equipment, systems, and installations. These sections include requirements to ensure the airplane is aerodynamically stable, and predictable in its handling. ''Handling qualities'' as applied here is intended to address pilot in the loop control of the aircraft trajectory and thus includes assessment of those systems which rely, primarily, on pilot input to effect changes in that trajectory.

Examples of such ''software system(s)'' include MCAS on the Boeing 737 MAX, pitch augmentation for the Boeing Model 777, and a flight control system that controls the yaw damper system of an airplane.

The FAA notes the similarity of this provision of the proposed fourth category with the requirement of § 21.3(c)(11), but again posits that it is sufficiently different that a separate requirement is necessary for holders, in order to comply with the statute.

The FAA anticipates that this information would not be overly difficult or time-consuming for applicants or holders to submit or disclose, because by definition the system was required for the airplane to be compliant with FAA stability standards, and therefore would have been on the airplane's compliance documentation.

5. SSA for Components and Systems With Potentially Hazardous or Catastrophic Outcomes

The fifth and final category of mandatory safety critical information that the FAA would require applicants and holders to submit and disclose would be a system safety assessment with respect to a system described in paragraph (1) or (2) of proposed § 21.1(c), or with respect to any component or other system for which failure or erroneous operation of such component or system could result in an outcome with a severity level of hazardous or catastrophic.

The FAA anticipates that previously-approved transport category airplane designs covered under part 25 will likely have this information in their SSAs, and that everything from a ''hazardous'' to a ''catastrophic'' failure condition would be included, and therefore not required to be resubmitted by a holder. Section 25.1309(d) requires all applicants for transport category airplane TCs to submit an analysis of the possible modes of failure, probability of failures, resulting effects (including effects of erroneous operation), etc., (*i.e.,* an SSA) to show that proposed design's compliance to § 25.1309(b).

The definitions of catastrophic and hazardous would be as previously noted. For purposes of proposed § 21.3(g), applicants and holders could use the definitions in the ''Arsenal'' version of AC 25.1309–1A, or in relevant FAA regulation or policy issued after the effective date of this proposed rule.

V. Regulatory Notices and Analyses

Federal agencies consider impacts of regulatory actions under a variety of executive orders and other requirements. First, Executive Order 12866 and Executive Order 13563, as amended by Executive Order 14094 (''Modernizing Regulatory Review''), direct that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify the costs. Second, the Regulatory Flexibility Act of 1980 (Pub. L. 96–354) requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (Pub. L. 96–39) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. Fourth, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate that may result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any one year. The current threshold after adjustment for inflation is $177,000,000, using the most current (2022) Implicit Price Deflator for the Gross Domestic Product. This portion of the preamble summarizes the FAA's analysis of the economic impacts of this rule.

[62] 35 FR 5665 (April 8, 1970), effective May 8, 1970.

[63] Reference AC 25.1309–1A, dated June 21, 1988.

[64] Per AC 25.1329–1C, a ''Stability Augmentation System'' consists of automatic systems that provide or enhance stability for specific aerodynamic characteristics of an airplane (for example, yaw damper, longitudinal stability augmentation system, Mach trim).

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

A. Regulatory Impact Analysis

This rule would implement a Congressional mandate by imposing new regulatory requirements (proposed § 21.15(d), (e), and (f) for applicants for new and amended TCs and proposed § 21.113(c)(1) through (c)(4) for applicants for new and amended STCs, and new regulatory requirements (proposed § 21.3(g)(1) and (2)) for TC holders. This proposal would add definitions for safety critical information, in proposed § 21.1(c).

The following paragraphs describe the proposal, the baseline (current rule or current practice or current policy), and the costs/benefits. The FAA expects the costs to be minimal as described below. Benefits are addressed qualitatively.

1. Applicants and Holders (Section 21.1(c)(1) Through (5))

Proposal: As part of its implementation of the Congressional mandate related to safety critical information, the FAA would define five categories of safety critical information in proposed § 21.1(c)(1) through (5).

Baseline: These five specific categories of safety critical information are not currently defined in FAA regulations.

Costs/Benefits: This provision would impose no costs. These definitions of safety-critical information would facilitate the regulatory implementation of five categories of safety critical information in the Congressional mandate, and would inform applicants for, and holders of, TCs for transport airplanes covered under part 25 regarding what must be submitted and disclosed under proposed §§ 21.15(e), (f), and 21.3(g).

2. Applicants

a. Section 21.15(d)

Proposal: An application for a TC, including a new or amended TC, would be required to be accompanied by a proposed certification plan.

Baseline: Currently, applicants for TCs submit a proposed certification plan to the FAA at the time of application as indicated in FAA Order 8110.4C.

Costs/Benefits: The FAA, as part of its implementation of the Congressional mandate, would establish a specific regulatory requirement for applicants to submit a certification plan. This would continue longstanding existing practices and thus involve minimal cost.

b. Section 21.15(d)(1)

Proposal: The certification plan must include a proposed certification basis.

Baseline: The proposed certification plan submitted by applicants under current practices includes a proposed certification basis, as described in FAA Order 8110.4C.[65]

Costs/Benefits: The proposal would implement part of the Congressional mandate and would incur minimal costs as the applicant already includes a proposed certification basis under the guidance in FAA Order 8110.4C.

c. Section 21.15(d)(2)

Proposal: The applicant's proposed certification plan would be required to include a proposed compliance checklist that contains the means of compliance, and that identifies all deliverables that the applicant anticipates will be necessary to show compliance.

Baseline: The proposed certification plan is submitted by applicants under current practices as described in FAA Order 8110.4C. Applicants submit a list of deliverables to show compliance with the applicable certification basis and how the applicant will ensure all showing have been made. This can be accomplished using a compliance checklist addressing each regulation applicable to the product. A description of how compliance will be shown (*e.g.,* ground test, flight test, analysis, similarity, or other acceptable means of compliance) is also included in FAA Order 8110.4C as part of a certification plan.

Costs/Benefits: The proposal would implement part of the Congressional mandate and would incur minimal costs as the applicant is already including a proposed compliance checklist with means of compliance identifying all known compliance deliverables that the applicant anticipates will be necessary to show compliance.

d. Section 21.15(d)(3)

Proposal: The proposed certification plan would be required to include a proposed project schedule with proposed milestones.

Baseline: Applicants for TCs include a proposed project schedule with proposed milestones in their certification plans as described in FAA Order 8110.4C.

Costs/Benefits: The proposal would implement part of the Congressional mandate and incur minimal costs as the applicant is already including a proposed schedule with proposed milestones.

e. Section 21.15(d)(4)

Proposal: The applicant's proposed certification plan would be required to include any other information necessary to allow the applicant's showings and certifying statement, and the FAA's findings, of compliance to be timely and accurately made.

Baseline: Applicants for TCs and amended TCs submit proposed certification plans under the guidance in FAA Order 8110.4C[66] that include any information necessary to allow the applicant's showings and certifying statement, and the FAA's findings, of compliance to be timely and accurately made.

Costs/Benefits: This rule would establish specific regulatory requirements for the information to be submitted in certification plans. These specific regulatory standards would be consistent with the informational and planning purposes of the categories of information typically submitted by applicants. Applicants could, and the FAA expects most applicants still would, use those existing categories as a means of compliance.

f. Section 21.15(d)(5)

Proposal: An application for a new or amended, but not supplemental, TC for a transport category airplane would be required to include a proposed milestone that identifies the applicant's requested date for TC issuance.

Baseline: Applicants for TCs include milestones in their certification plans that include the applicant's expected certification date as indicated in FAA Order 8110.4C.

Costs/Benefits: Due to the alignment of the proposal with current practices, the FAA expects minimal costs.

g. Section 21.15(e)

Proposal: For applicants for a new or amended, but not supplemental, type certificate for a transport category airplane, the proposed certification plan would be required to be updated to include or describe all of the safety critical information set forth in § 21.1(c).

[65] See footnote 15.

[66] Paragraphs 2–3d.(1) through (11), as applicable to the certification project.

The applicant would be required to submit this update to the FAA within 1 year of submitting the application, but no later than 6 months prior to the requested date of issuance of the type certificate.

Baseline: Applicants for transport category airplane TCs currently submit information describing their proposed design and operational details, means of showings of compliance and proposals for findings of compliance, in order to show that their proposed designs comply with several relevant regulations. Currently, applicants submit this compliance information throughout the certification process.

Costs/Benefits: Safety critical information about its proposed design and operational suitability should already be available to the transport airplane applicant, even in preliminary form, at the time of submittal of the required update to the certification plan, so there should be no additional costs of identifying this information for submission. Submission costs should be negligible.

The FAA would be more likely to receive safety critical information in a timely manner. The agency would also be more likely to receive safety critical information as the applicant would be aware of what information is considered safety critical due to the definitions in proposed § 21.1(c).

This could have a safety benefit because the agency would be aware of this important information relatively early in the certification process and would be more likely to receive specific safety critical information at that point. The FAA could then identify and provide feedback to the applicant about their proposed design and compliance information specific to safety critical information early.

h. Section 21.15(f)

Proposal: Each applicant for a new or amended TC for a transport category airplane would, within 3 business days of discovery, be required to disclose to the FAA any information or design or analysis change that would materially alter any prior submission of the safety critical information defined in § 21.1(c). The proposed rule would clearly define the FAA, not a designee, who would receive the safety critical information for transport category airplanes from applicants.

Baseline: The transport category airplane applicant currently keeps its proposed design, operational, and compliance information updated throughout the project, but there is no specific timeframe for them to disclose new safety critical information to the FAA or for the types of changes that require disclosure. Under the current practice it can sometimes be a designee, or person within an ODA unit, who receives the updated information.

Costs/Benefits: The FAA expects that the cost would be minimal because the applicant is currently expected to keep their information current. However, the rule would require the information or design or analysis change to be disclosed to the FAA within 3 business days of discovery. The FAA does not expect this prompt submission of the information to the FAA to be costly.

This could have a safety benefit because the agency would be aware of changes to safety critical information earlier (within 3 business days of discovery). The FAA could then identify and share potential concerns about the changes with the applicant earlier, and resolve these concerns earlier.

Also, there might be a benefit of submitting directly to the FAA, as it would be more likely that the appropriate information would get to the FAA. When investigating the FAA's certification of the Boeing 737 MAX, a Congressional committee found that Boeing did not clearly relay important safety related information to the FAA because there was no requirement to do so.[67] According to the committee report,[68] this

> ". . . hinder[ed] a more comprehensive FAA review of the 737 MAX which may have improved the safety of the airplane . . ."

i. Section 21.113(c)

Proposal: Applications for new and amended STCs would, like applications for new and amended TCs, be required to be accompanied by a proposed certification plan.

Baseline: Currently, applicants for STCs submit a proposed certification plan to the FAA at the time of application.

Costs/Benefits: The proposal would incur minimal costs as STC applicants already submit proposed certification plans. The proposal would establish consistency in the requirements for TC and STC applicants by also adding the requirement for STC applicants and aligning the process for both certificate types.

j. Section 21.113(c)(1)

Proposal: The certification plan must include a proposed certification basis.

Baseline: The proposed certification plan submitted by applicants under current practices includes a proposed certification basis as described in FAA Order 8110.4C.

Costs/Benefits: The proposal would establish consistency in the requirements for TC and STC applicants by aligning the process for both certificates and would incur minimal costs as the applicant is already including a proposed certification basis.

k. Section 21.113(c)(2)

Proposal: The applicant's proposed certification plan would be required to include a proposed compliance checklist that contains means of compliance, and that identifies all deliverables that the applicant anticipates will be necessary to show compliance.

Baseline: The proposed certification plan is submitted by applicants under current practices as described in FAA Order 8110.4C. Applicants submit a list of deliverables to show compliance with the applicable certification basis and to show how the applicant will ensure all showings have been made. This can be accomplished by using a compliance checklist that addresses each regulation applicable to the product. A description of how compliance will be shown (*e.g.,* ground test, flight test, analysis, similarity, or other acceptable means of compliance) is also included in FAA Order 8110.4C as part of a certification plan.

Costs/Benefits: The proposal would incur minimal costs as the applicant already includes a proposed compliance checklist that contains means of compliance, and that identifies all deliverables that the applicant anticipates will be necessary to show compliance. The proposal would establish consistency in the requirements for TC and STC applicants by also adding the requirement for STC applicants.

l. Section 21.113(c)(3)

Proposal: The proposed certification plan would be required to include a proposed project schedule with proposed milestones.

Baseline: Applicants for STCs include a proposed project schedule with proposed milestones in their certification plans as described in FAA Order 8110.4C.

Costs/Benefits: The proposal would incur minimal costs as STC applicants are already submitting proposed milestones with their certification plans. The proposal would establish consistency in the requirements for TC and STC applicants by aligning the process for both certificate types.

[67] House Report at pg. 57.

[68] By quoting this report, the FAA is not taking a position on the causes or avoidance of the accidents, but simply noting what appears to have led to the legislation.

m. Section 21.113(c)(4)

Proposal: The certification plan for an STC would be required to include any other information necessary to allow the applicant's showings and certifying statement, and the FAA's findings, of compliance to be timely and accurately made.

Baseline: Applicants for STCs submit proposed certification plans, that include under the guidance in FAA Order 8110.4C any information necessary to allow the applicant's showings, and the FAA's findings, of compliance to be timely and accurately made.

Costs/Benefits: The proposal would incur minimal costs as STC applicants are already submitting proposed certification plans with information necessary to allow the applicant's showings, and the FAA's findings, of compliance to be timely and accurately made. The proposal would also establish consistency in the requirements for TC and STC applicants by also adding the requirement for STC applicants and aligning the process for both certificate types.

3. Holders

a. Section 21.3(g)(1)

Proposal: The holder of a TC, including an amended TC but not including an STC, for a transport category airplane covered under part 25 would, within 90 days of (effective date of final rule), be required to submit to the FAA, for each model, all safety critical information, as defined by § 21.1(c), which is known and which has not previously been submitted to the FAA.

Baseline: Holders of transport category airplane TCs are currently required to submit much of the safety critical information defined by § 21.1(c) to the FAA. TC holders currently submit, or have already submitted, much of this information via a variety of regulatory and policy mechanisms. As an applicant, prior to receiving the transport category airplane TC, the holder would have had to have shown compliance with regulations such as § 25.1309. Such compliance would have included compliance data which correlates with the five categories of safety critical information. Also, holders of such certificates have an ongoing regulatory obligation to inform the FAA of certain failures, malfunctions, and defects, including those that would affect the flight control system pursuant to § 21.3(c)(11). The majority of current domestic holders of part 25 transport category airplane TCs are also ODA holders. Such ODA holders have an ongoing obligation to inform the FAA of potential safety and compliance issues with their approved designs, pursuant to § 183.63.

Cost/Benefits: The FAA expects minimal cost. First, the scope of the covered information is relatively narrow. Second, as described in the preceding paragraph, FAA expects that much if not all of such information will have already been submitted by the holder.

The benefits of this requirement would be ensuring that the FAA would be aware of safety critical information, if any, that it had not previously been made aware of. This would be a potential safety benefit as the FAA would be able to identify and address any potential issues.

b. Section 21.3(g)(2)

Proposal: The holder of a transport category airplane TC covered under part 25 would be required to disclose to the FAA, within 3 business days of discovery, any newly discovered information or design or analysis change that would materially alter any safety critical information as defined by § 21.1(c).

Baseline: As described above, TC holders and ODA holders are required to submit certain information to the FAA on an ongoing basis. Some of this information, such as that required by § 21.3, must generally be submitted within 24 hours. The timeline for submittal of other information is dependent on the nature of the information and the provisions of the ODA holder's FAA-approved ODA procedures manual. However, there is not a specific requirement to disclose safety critical information, as would be defined in proposed § 21.1, within 3 business days.

Costs/Benefits: Because, as described above, most of this information is already being updated (disclosed to the FAA) pursuant to existing processes, the FAA expects that this requirement, of disclosing information to the FAA within 3 days, will carry a minimal cost. The FAA expects that the provision would ensure that the safety critical information as specifically defined by Congress would be provided to the FAA in a timely manner.

The FAA calls for comment on all the preceding determinations.

4. Conclusion

Based on the preceding discussion, the FAA concludes that the proposed rule would impose minimal costs on industry, as discussed in the regulatory notices and analyses section. The FAA has found potential benefits from the proposal. The FAA may receive, and therefore be aware of, safety critical information that it had not previously been made aware of, not only from transport category airplane TC applicants but also from holders. It would receive the safety critical information earlier in, and more definitively throughout, the certification process. This could result in a safety benefit, as the FAA would be able to identify and share concerns with the applicant and address any potential issues. The proposed rule would codify the current practice of submitting a proposed certification plan with milestones, and thus provide a planning benefit, and increased certainty and predictability, for applicants. As it would follow current practice, this requirement would impose minimal cost. The regulatory implementation of the Congressional requirement that applicants and holders submit and disclose five categories of safety critical information would be another safety benefit. The submittal of previously undisclosed, and continued disclosure of newly discovered, safety critical information by transport category airplane TC holders may also provide a safety benefit.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) of 1980, Public Law 96–354, 94 Stat. 1164 (5 U.S.C. 601–612), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121, 110 Stat. 857, Mar. 29, 1996) and the Small Business Jobs Act of 2010 (Pub. L. 111–240, 124 Stat. 2504 Sept. 27, 2010), requires Federal agencies to consider the effects of the regulatory action on small business and other small entities and to minimize any significant economic impact. The term ''small entities'' comprises small businesses and 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 FAA has determined that, based on the Small Business Administration (SBA) size standard for aircraft manufacturing, (Table 1), none of the entities that would be subject to the proposed rulemaking are small entities. Also, as described in the RIA, the proposed rule would impose minimal costs. Therefore, the FAA proposes to certify that the rule would not have a significant economic impact on a substantial number of small entities. The FAA welcomes comments on the basis for this certification.

TABLE 1—SMALL BUSINESS SIZE STANDARD

NAICS code	Description	Size standard
336411	Aircraft manufacturing	1,500 employees.

Source: SBA (2019) [69].
NAICS = North American Industrial Classification System.

C. International Trade Impact Assessment

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

The FAA has assessed the potential effect of this rule and determined that as it results in a minimal cost to U.S. manufacturers, it would not create an unnecessary obstacle to foreign commerce. As a result, the FAA does not consider this rule as creating an unnecessary obstacle to foreign commerce.

D. Unfunded Mandates Assessment

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or Tribal government or the private sector to incur direct costs without the Federal government having first provided the funds to pay those costs. The FAA determined that the proposed rule would not result in the expenditure of $177,000,000 or more by State, local, or Tribal governments, in the aggregate, or the private sector, in any one year.

E. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that the FAA consider the impact of paperwork and other information collection burdens imposed on the public. The FAA has determined that there would be no new requirement for information collection associated with the proposed requirement for transport category airplane TC applicants and holders to submit and disclose safety critical information because this information is already submitted under existing processes, as described elsewhere in this NPRM. Approval to collect such information under those processes was previously approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) and was assigned OMB Control Number 2120–0018.

F. International Compatibility

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to conform to International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. The FAA has determined that there are no ICAO Standards and Recommended Practices that correspond to these proposed regulations.

G. Environmental Analysis

FAA Order 1050.1F identifies FAA actions that are categorically excluded from preparation of an environmental assessment or environmental impact statement under the National Environmental Policy Act (NEPA) in the absence of extraordinary circumstances. The FAA has determined this rulemaking action qualifies for the categorical exclusion identified in paragraph 5–6.6f for regulations and involves no extraordinary circumstances.

VI. Executive Order Determinations

A. Executive Order 13132, Federalism

The FAA has analyzed this proposed rule under the principles and criteria of Executive Order (E.O.) 13132, Federalism. The FAA has determined that this action would not have a substantial direct effect on the States, or the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government, and, therefore, would not have federalism implications.

B. Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

Consistent with Executive Order 13175, Consultation and Coordination with Indian Tribal Governments,[70] and FAA Order 1210.20, American Indian and Alaska Native Tribal Consultation Policy and Procedures,[71] the FAA ensures that Federally Recognized Tribes (Tribes) are given the opportunity to provide meaningful and timely input regarding proposed Federal actions that have the potential to affect uniquely or significantly their respective Tribes. At this point, the FAA has not identified any unique or significant effects, environmental or otherwise, on Tribes resulting from this proposed rule.

C. Executive Order 13211, Regulations That Significantly Affect Energy Supply, Distribution, or Use

The FAA analyzed this proposed rule under E.O. 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use (May 18, 2001). The FAA has determined that it would not be a ''significant energy action'' under the executive order and would not be likely to have a significant adverse effect on the supply, distribution, or use of energy.

D. Executive Order 13609, Promoting International Regulatory Cooperation

Executive Order 13609, Promoting International Regulatory Cooperation, promotes international regulatory cooperation to meet shared challenges involving health, safety, labor, security, environmental, and other issues and to reduce, eliminate, or prevent unnecessary differences in regulatory requirements. The FAA has analyzed this action under the policies and agency responsibilities of E.O. 13609 and has determined that this action would have no effect on international regulatory cooperation.

[69] Small Business Administration (SBA). 2019. Table of Size Standards. Effective August 12, 2019. *www.sba.gov/document/support-table-size-standards.*

[70] 65 FR 67249 (Nov. 6, 2000).

[71] FAA Order No. 1210.20 (Jan. 28, 2004), available at *www.faa.gov/documentLibrary/media/1210.pdf.*

VII. Additional Information

A. Comments Invited

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. The FAA also invites comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this document. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should submit only one time if comments are filed electronically, or commenters should send only one copy of written comments if comments are filed in writing.

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

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.*

B. 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 NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to the person in the **FOR FURTHER INFORMATION CONTACT** section of this document. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

C. Electronic Access and Filing

A copy of this NPRM, all comments received, any final rule, and all background material may be viewed online at *www.regulations.gov* using the docket number listed above. A copy of this proposed rule will be placed in the docket. Electronic retrieval help and guidelines are available on the website. It is available 24 hours each day, 365 days each year. An electronic copy of this document may also be downloaded from the Office of the Federal Register's website at *www.federalregister.gov* and the Government Publishing Office's website at *www.govinfo.gov.* A copy may also be found at the FAA's Regulations and Policies website at *www.faa.gov/regulations_policies.*

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

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

D. Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 requires the FAA to comply with small entity requests for information or advice about compliance with statutes and regulations within its jurisdiction. A small entity with questions regarding this document may contact its local FAA official, or the person listed under the **FOR FURTHER INFORMATION CONTACT** heading at the beginning of the preamble. To find out more about SBREFA on the internet, visit *www.faa.gov/regulations_policies/rulemaking/sbre_act/.*

List of Subjects in 14 CFR Part 21

Aircraft, Aviation safety, Exports, Imports, Reporting and recordkeeping requirements.

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend chapter I of title 14, Code of Federal Regulations as follows:

PART 21—CERTIFICATION PROCEDURES FOR PRODUCTS AND ARTICLES

■ 1. The authority citation for part 21 continues to read as follows:

Authority: 42 U.S.C. 7572; 49 U.S.C. 106(f), 106(g), 40105, 40113, 44701–44702, 44704, 44707, 44709, 44711, 44713, 44715, 45303.

■ 2. Amend § 21.1 by adding paragraph (c) to read as follows:

§ 21.1 Applicability and definitions.

* * * * *

(c) For purposes of §§ 21.3 and 21.15, safety critical information is:

(1) All design and operational details, intended functions, and failure modes of any system that, without being commanded by the flightcrew, commands the operation of any safety critical function or feature required for control of the airplane during flight or that otherwise changes the flight path or airspeed of an airplane;

(2) all design and operational details, intended functions, failure modes, and mode annunciations of autopilot and autothrottle systems, if applicable;

(3) all failure or operating conditions that the type certificate applicant or holder anticipates or has concluded would result in an outcome with a severity level of hazardous or catastrophic;

(4) any adverse handling quality that fails to meet the requirements of part 25 of this chapter without the addition of a software system to augment the flight controls of the airplane to produce compliant handling qualities; and

(5) a system safety assessment with respect to a system described in paragraph (1) or (2) of this paragraph, or with respect to any component or other system for which failure or erroneous operation of such component or system could result in an outcome with a severity level of hazardous or catastrophic.

■ 3. Amend § 21.3 by revising the section heading and the introductory text of paragraph (e), and adding paragraph (g) to read as follows:

§ 21.3 Reporting of failures, malfunctions, defects, and safety critical information.

* * * * *

(e) Each report required by this section, except as provided in § 21.3(g)—

* * * * *

(g) The holder of a type certificate, including an amended type certificate but not including a supplemental type

certificate, for a transport category airplane covered under part 25 of this chapter must:

(1) Within 90 days of [date 60 days after publication of final rule in the **Federal Register**], submit to the FAA, for each model, all safety critical information, as defined by § 21.1(c), which is known and which has not previously been submitted to the FAA, and;

(2) After 90 days of [date 60 days after publication of final rule in the **Federal Register**], disclose to the FAA, within 3 business days of discovery, any newly discovered safety critical information as defined by § 21.1(c), or design or analysis change that would materially alter such information.

■ 4. Amend § 21.15 by adding paragraphs (d), (e), and (f) to read as follows:

§ 21.15 Application for type certificate.

* * * * *

(d) An application for a type certificate, including a new or amended type certificate, must be accompanied by a proposed certification plan. The certification plan must include:

(1) A proposed certification basis;

(2) A proposed compliance checklist that contains means of compliance, and that identifies all deliverables that the applicant anticipates will be necessary to show compliance;

(3) A proposed project schedule, with milestones;

(4) Any other information necessary to allow the applicant's showings and certifying statement, and the FAA's findings, of compliance to be timely and accurately made; and

(5) For applications for a new or amended, but not supplemental, type certificate for a transport category airplane, a proposed milestone that identifies the applicant's requested date for type certificate issuance.

(e) Within 1 year of submitting the application for a new or amended, but not supplemental, type certificate for a transport category airplane, but no later than 6 months prior to the requested date of issuance of the type certificate, the applicant must update the proposed certification plan required by § 21.15(d) to include or describe all of the safety critical information set forth in § 21.1(c).

(f) Each applicant for a new or amended, but not supplemental, type certificate for a transport category airplane must, within 3 business days of discovery, disclose to the FAA any information or design or analysis change that would materially alter any prior submission of the safety critical information set forth in § 21.1(c).

■ 5. Amend § 21.113 by revising paragraph (c) and adding paragraphs (c)(1) through (c)(4) to read as follows:

§ 21.113 Requirement for supplemental type certificate.

* * * * *

(c) The application for an STC must be made in the form and manner prescribed by the FAA and must be accompanied by a proposed certification plan. The certification plan must include:

(1) A proposed certification basis;

(2) A proposed compliance checklist that contains means of compliance, and that identifies all deliverables that the applicant anticipates will be necessary to show compliance;

(3) A proposed project schedule, with milestones; and

(4) Any other information necessary to allow the applicant's showings and certifying statement, and the FAA's findings, of compliance to be timely and accurately made.

Issued under authority provided by 49 U.S.C. 106(f), 44701, and 44704 in Washington, DC, on January 22, 2024.

Lirio Liu,

Executive Director of Aircraft Certification.

[FR Doc. 2024–01485 Filed 1–24–24; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2023–2467; Airspace Docket No. 23–ASO–42]

RIN 2120–AA66

Amendment of Class E Airspace; Winder, GA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend Class E airspace for Barrow County Airport, Winder, GA, extending upward from 700 feet above the surface. This action would increase the existing radius and update the airport's name and geographic coordinates to coincide with the FAA's database.

DATES: Comments must be received on or before March 11, 2024.

ADDRESSES: Send comments identified by FAA Docket No. FAA–2023–2467 and Airspace Docket No. 23–ASO–42 using any of the following methods:

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

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

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

FAA Order JO 7400.11H Airspace Designations and Reporting Points and subsequent amendments can be viewed online at *www.faa.gov/air_traffic/publications/.* You may also contact the Rules and Regulations Group, Office of Policy, Federal Aviation Administration, 800 Independence Avenue SW, Washington DC 20591; telephone: (202) 267–8783.

FOR FURTHER INFORMATION CONTACT: Scott Stuart, Operations Support Group, Eastern Service Center, Federal Aviation Administration, 1701 Columbia Avenue, College Park, GA 30337; Telephone: (404) 305–5926.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

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

Comments Invited

The FAA invites interested persons to participate in this rulemaking by

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

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

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

Availability of Rulemaking Documents

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

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Operations office (see **ADDRESSES** section for address, phone number, and hours of operations). An informal docket may also be examined during normal business hours at the office of the Eastern Service Center, Federal Aviation Administration, Room 210, 1701 Columbia Ave., College Park, GA, 30337.

Incorporation by Reference

Class E airspace designations are published in Paragraph 6005 of FAA Order JO 7400.11, Airspace Designations and Reporting Points, incorporated by reference in 14 CFR 71.1 annually. This document proposes to amend the current version of that order, FAA Order JO 7400.11H, Airspace Designations and Reporting Points, dated August 11, 2023, and effective September 15, 2023. These updates will be published in the next FAA Order JO 7400.11 update. FAA Order JO 7400.11H is publicly available as listed in the **ADDRESSES** section of this document. FAA Order JO 7400.11H lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Proposal

The FAA proposes an amendment to 14 CFR part 71 to amend Class E airspace extending upward from 700 feet above the surface for Barrow County Airport, Winder, GA, by updating the airport name (formerly Winder Airport) and geographic coordinates to coincide with the FAA's database. Also, the FAA is proposing to amend the radius by increasing it to 7.1 miles (previously 6.5 miles), which is consistent with the outcome of an airspace evaluation. Controlled airspace is necessary for the area's safety and management of instrument flight rules (IFR) operations.

Regulatory Notices and Analyses

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

Environmental Review

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

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order JO 7400.11H, Airspace Designations and Reporting Points, dated August 11, 2023, and effective September 15, 2023, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

ASO GA E5 Winder, GA [Amended]

Barrow County Airport, GA
(Lat 33°58′58″ N, long 83°40′02″ W)

That airspace extending upward from 700 feet above the surface within a 7.1-mile radius of Barrow County Airport.

* * * * *

Issued in College Park, Georgia, on January 18, 2024.

Andreese C. Davis,

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

[FR Doc. 2024–01429 Filed 1–24–24; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 490

[Docket No. FHWA–2023–0014]

RIN 2125–AG06

National Performance Management Measures; Extenuating Circumstances, Highway Performance Monitoring System Data Field Names, Safety Performance Measure, Pavement Condition Measure, and Freight Performance Measure

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

ACTION: Notice of Proposed Rulemaking (NPRM); request for comments.

SUMMARY: This rulemaking proposes updates to the National Performance Management Measures regulations to consider impacts of national emergencies on performance achievement, address compliance determinations and penalty assessment for the pavement condition measures, clarify data collection standards and requirements, adjust freight reporting to align with the 4-year update cycle for State Freight Plans in the Bipartisan Infrastructure Law (BIL), and provide select clarifying technical corrections. The rulemaking would also incorporate by reference the Highway Performance Monitoring System (HPMS) Field Manual, which includes updated fields related to the collection of Transportation Performance Management (TPM) data. This rulemaking also would provide for greater opportunities for meaningful safety performance targets and outcomes, consider approaches to alternative safety performance measures, and align performance targets for the three common measures that must be identical with the National Highway Traffic Safety Administration (NHTSA).

DATES: Comments must be received on or before February 26, 2024.

ADDRESSES: To ensure that you do not duplicate your docket submissions, please submit comments by only one of the following means:

- *Federal eRulemaking Portal:* Go to *www.regulations.gov* and follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 366–9329.

All submissions should include the agency name and the docket number that appears in the heading of this document or the Regulation Identifier Number (RIN) for the rulemaking. All comments received will be posted without change to *www.regulations.gov,* including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Mrs. Alexis Kuklenski, Office of Infrastructure (HIF), (202) 689–9229, or via email at *alexis.kuklenski@dot.gov,* or Ms. Dawn Horan, Office of the Chief Counsel (HCC–30), (202) 366–9615, or via email at *Dawn.M.Horan@dot.gov.* Office hours are from 8 a.m. to 4:30 p.m., E.T., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access and Filing

This document and all comments received may be viewed online through the Federal eRulemaking portal at *www.regulations.gov* using the docket number listed above. Electronic retrieval help and guidelines are also available at *www.regulations.gov.* An electronic copy of this document may also be downloaded from the Office of the Federal Register's website at *www.FederalRegister.gov* and the Government Publishing Office's website at *www.GovInfo.gov.*

All comments received before the close of business on the comment closing date indicated above will be considered and will be available for examination in the docket at the above address. Comments received after the comment closing date will be filed in the docket and will be considered to the extent practicable. In addition to late comments, FHWA will also continue to file relevant information in the docket as it becomes available after the comment period closing date and interested persons should continue to examine the docket for new material. A final rule may be published at any time after close of the comment period and after DOT has had the opportunity to review the comments submitted.

I. Background and Regulatory History

The Moving Ahead for Progress in the 21st Century Act (MAP–21) (Pub. L. 112–141) and the Fixing America's Surface Transportation (FAST) Act (Pub. L. 114–94) transformed the Federal-aid highway program by establishing performance management requirements. On November 14, 2021, President Biden signed the BIL, enacted as the Infrastructure Investment and Jobs Act (Pub. L. 117–58), which continued the performance management requirements. Such requirements aim to increase accountability and transparency and facilitate efficient investment of Federal transportation funds through a focus on performance outcomes for seven national transportation goals concerning safety, infrastructure condition, congestion reduction, system reliability, freight movement and economic vitality, environmental sustainability, and reduced project delivery delays. See 23 U.S.C. 150(b). Through performance management, recipients of Federal-aid highway funds make transportation investments to achieve performance targets that make progress toward those national goals. The FHWA's performance management regulations created a framework to more effectively evaluate and report on the Nation's surface transportation performance. The FHWA's performance management requirements are codified in 23 CFR part 490.

Most relevant to the proposed rulemaking, the performance management framework requires State departments of transportation (State DOT) to biennially establish performance targets related to the National Highway Performance Program (NHPP) and National Highway Freight Program (NHFP) Congestion Mitigation and Air Quality Improvement Program. State DOTs then report progress towards those targets biennially per § 490.107.

In addition, FHWA conducts a biennial assessment of the State DOT's progress toward the achievement of individual NHPP and NHFP targets. This assessment is commonly called the significant progress determination. If a State DOT fails to make significant progress toward the achievement of an applicable target, additional reporting to document how progress will be made is required for all targets in the measure area.

For the freight measure only, as part of the biennial reporting, the State DOT also provides the location of truck freight bottlenecks within the State and reports on progress toward addressing the congestion at these locations. The regulation allows the State DOT to use their State Freight Plan prepared under 49 U.S.C. 70202 to meet these requirements when it is less than 2 years old.

As part the State DOT's biennial reporting, the State DOT can provide an explanation of how any extenuating circumstances listed in the regulation prevented it from making significant progress toward the achievement of an individual target. The State DOT must also quantify the impacts on the condition/performance that resulted from the extenuating circumstance(s). The FHWA expects that the application of extenuating circumstances would occur for unique events and would not be regularly applied. If FHWA accepts the State DOT's explanation, FHWA classifies the progress toward achieving the relevant target(s) as ''progress not determined,'' and those targets are excluded from the requirement to make significant progress toward the achievement of applicable targets.

In addition, for the Interstate System pavement condition measures, §§ 490.105(c)(1) and (c)(2), State DOTs are allowed to have no more than 5.0

percent of their Interstate System in poor condition. Alaska alone is not allowed to exceed 10.0 percent. The minimum condition requirements for Interstate pavements are described in § 490.316. When a State DOT exceeds the minimum condition level for Interstate pavements, penalties apply, as described in § 490.317. To determine if the penalty will apply, FHWA annually determines if the State DOT is in compliance with the minimum condition thresholds in § 490.315(a) or § 490.315(b) and 23 U.S.C. 119(f)(1).

The five safety measures listed at § 490.205 have a slightly different target setting and reporting framework than the other TPM measures in 23 CFR part 490. For the five safety measures, each performance measure is based on a 5-year rolling average, and targets are established annually consistent with § 490.209. The State DOT targets are to be identical to the targets established by the State Highway Safety Office for common performance measures reported in the State's Highway Safety Plan, subject to the requirements of 23 U.S.C. 402(k)(4), and as coordinated through the State Strategic Highway Safety Plan. The targets established by the State DOT are reported to FHWA in the State's Highway Safety Improvement Program (HSIP) annual report in accordance with 23 CFR part 924. As with the other measures, FHWA assesses the State DOT's progress toward the achievement of its safety targets. This assessment is commonly called the significant progress determination. If a State DOT fails to meet or make significant progress toward the achievement of four of the five safety targets, the State DOT must comply with 23 U.S.C. 148(i) for the subsequent three fiscal years. This means that State DOTs would be submitting a single HSIP Implementation Plan covering the next three fiscal years and must use their obligation authority equal to the apportionment of the State for the prior year for the next three fiscal years only for highway safety improvement projects. The FHWA invites comments on this proposed approach.

A. Summary of Expected Schedule for Implementation

The FHWA understands that the timing of this rulemaking will impact performance cycle data submission. The FHWA will develop phase-in timeframe compliance dates and other implementation guidance at the conclusion of the rulemaking process. Under Subpart B, FHWA proposes to align the target setting performance cycle with NHTSA's final rule [1] that sets forth two new requirements with respect to the safety performance targets set by the State Highway Safety Office (HSO): (1) States must develop a triennial HSP and (2) performance targets must demonstrate constant or improved performance. The proposed changes to the FHWA regulation would shift the reporting cycle of the HSIP performance targets from an annual to a triennial cycle.

If this new regulatory language goes into effect, the next triennial cycle under these proposed revised requirements is expected to be for the HSIP safety performance targets reported in August 2024 representing safety performance for calendar years 2025 through 2027, based on a 3-year average. However, this cycle will not align with NHTSA's current triennial cycle (2024–2026) for the safety performance targets submitted by State HSOs in their triennial Highway Safety Plans (3HSP) in July 2023. As a result, FHWA is seeking comment on how to approach aligning FHWA's triennial cycle with NHTSA's triennial cycle.

One option would be for FHWA to require States to align with NHTSA's 2024–2026 triennial cycle in their August 2024 HSIP Annual Report. This would require States to retroactively report 2024 data for their first triennial cycle (2024–2026) in their August 2024 HSIP Annual Report. Under this option, States could choose to submit the established targets that SHSOs submitted to NHTSA in July 2023, or work with the SHSOs to reset the triennial targets so it is identical for the common safety performance measures.

Another option for consideration would be to waive the requirement for identical performance targets between NHTSA and FHWA programs for CY 2025 and CY 2026 and have the State DOTs continue to submit annual safety performance targets based on 5-year averages (as per the current regulation) in their HSIP Annual Reports until NHTSA's next triennial cycle (2027–2029). This option would require State DOTs to first report identical targets for the common safety performance measures in their August 2026 HSIP Annual Report for CY 2027 through 2029, based on a 3-year average, which would align with the safety performance targets submitted by State HSOs in the 3 HSP in July 2026. The FHWA specifically requests comments regarding this topic.

[1] Uniform Procedures for State Highway Safety Grant Programs Final Rule: *https://www.federalregister.gov/documents/2023/02/06/2023-01819/uniform-procedures-for-state-highway-safety-grant-programs.*

II. Section-by-Section Discussion of the Proposed Changes

The FHWA proposes substantive changes to three subparts of 23 CFR part 490: Subpart A—General Information, which applies to all of the regulations throughout part 490; Subpart B—National Performance Management Measures for the Highway Safety Improvement Program; and Subpart E—National Performance Management Measures to Assess Performance of the National Highway System. This section of the preamble describes the proposed changes and the reasons behind them. The FHWA has also proposed several non-substantive changes throughout the regulatory text to remove the phrase ''and/or'' and replace it with ''and'' or ''or'', as appropriate, to provide increased clarity. The proposed rule would apply to the 50 States, the District of Columbia, and Puerto Rico consistent with the definition of the term ''State'' in 23 U.S.C. 101(a). The FHWA has included questions to the public on issues where comments may be particularly useful in facilitating implementation of the proposals.

A. Subpart A—General Information

Section 490.103 Data Requirements

The FHWA proposes to add § 490.103(h) to allow a temporary extension of any date within the part for good cause, unless an extension of that date is prohibited by law. The FHWA desires to have, and be able to exercise, flexibility when unforeseen circumstances arise that would cause undue hardship on the State DOTs or Metropolitan Planning Organizations (MPO) when complying with the provisions in this part.

Section 490.107 Reporting on Performance Targets

The FHWA proposes to revise paragraphs of § 490.107 to align with section 21104(c) of the BIL, which amended the State Freight Plan requirements of 49 U.S.C. 70202(e). State DOTs are now required to update their State Freight Plans every 4 years, as opposed to the 5 years that were required by the FAST Act. Congress made this change through BIL to better align the timing of State Freight Plan updates with other State transportation planning efforts, including the TPM Program established under MAP–21. Since BIL created a 4-year update cycle for State Freight Plans, there will now be an updated State Freight Plan within each 4-year TPM reporting cycle.

The FHWA is proposing to remove the text in §§ 490.107(b)(1)(ii)(E) and 490.107(b)(2)(ii)(D) that requires a State

Freight Plan prepared under 49 U.S.C. 70202 be done within the previous 2-years for it to be used as the basis for identifying freight bottlenecks and addressing congestion at truck freight bottlenecks in the biennial report. The FHWA's proposal would allow the most recent State Freight Plan prepared under 49 U.S.C. 70202 to be used.

In § 490.107(b)(2)(ii)(D), for the Mid and Full Performance Period Progress Report, if the State Freight Plan has not been updated in the last 2 years, ''then an updated analysis of congestion at truck freight bottlenecks must be completed.'' Some State DOTs misinterpreted this as requiring the submission of an updated bottleneck list. The FHWA is proposing revisions to clarify FHWA's expectation State DOTs will identify bottlenecks at the baseline and will provide a discussion of progress toward addressing congestion at those points in the Mid and Full Performance Period Progress Reports. The proposed change is intended to clarify expectations but not change them.

In addition, as part of the Mid and Full Performance Period Progress Reports, the State DOT must discuss their efforts to address congestion at truck freight bottlenecks and the State Freight Plan may serve as the basis for discussing how congestion has been addressed at truck freight bottlenecks. The FHWA is proposing to add language to § 490.107(b)(2)(ii)(D) to clarify that the State DOT needs to update the information from the previous State Biennial Performance Report. If the information in the previous State Biennial Performance Report was from the current State Freight Plan, this information needs to be reviewed and updated as necessary with the next State Biennial Performance Report. This clarification is consistent with FHWA's existing guidance.

The FHWA has also proposed a technical correction to § 490.107(b)(2)(ii)(D) and 490.107(b)(3)(ii)(D). The FHWA is proposing to change ''. . . paragraph (b)(1)(ii)(F) . . .'' to ''. . . paragraph (b)(1)(ii)(E) . . .'' in both locations.

Section 490.109 Assessing Significant Progress Toward Achieving the Performance Targets for the National Highway Performance Program and the National Highway Freight Program

The FHWA proposes to add specificity to the paragraph reference in § 490.109(e)(4)(ii) from (d)(1) to (d)(1)(i), and revise the paragraph reference in § 490.109(e)(4)(iv) from (d)(3) to (d)(1)(iii). These are technical corrections to the cross references and do not change the intent of the regulations.

The FHWA proposes to correct the paragraph reference in § 490.109(e)(4)(iii) from (d)(2) to (d)(1)(ii), and correct § 490.313(b)(4)(i) by changing it to § 490.313(b)(4)(ii) to align with the changes proposed to § 490.313(b)(4). These are technical corrections that are not intended to change the requirements in § 490.109(e)(4)(iii).

The FHWA proposes to revise § 490.109(e)(4)(v) to clarify FHWA's approach for determining significant progress when reported data for baseline condition/performance is determined ''insufficient'' in the year in which the Baseline Performance Period Report is due to FHWA. This approach was previously documented in the preamble for the 2017 Final Rule for the pavement and bridge performance measures.[2] If the data for baseline condition/performance is determined insufficient, the comparison between the baseline condition/performance and the actual condition/performance cannot be made. In this situation, FHWA will make a significant progress determination for that measure by comparing the target to the actual condition/performance. The FHWA will determine that a State DOT has not made significant progress toward the achievement of a target if data for the baseline condition/performance was determined insufficient previously, and the actual condition/performance level is not equal to or better than the established target. The proposed revision to the regulatory text is a technical correction that does not change the intent or application of the regulation.

The FHWA proposes to amend § 490.109 by adding a new paragraph (e)(5)(ii)(D) providing that an applicable extenuating circumstance includes a presidentially declared national emergency, which would cover events such as national public health emergencies. With various governmental units and agencies possibly having the ability to declare disasters, FHWA proposes to clarify in § 490.109 that natural or man-made disasters must be declared under the Robert T. Stafford Disaster Relief and Emergency Assistance Act. The inclusion of this regulatory language is necessary to enable State DOTs to request relief from the requirements for not making significant progress toward achieving their performance targets because of extenuating circumstances due to the impacts of a presidentially declared national emergency. This new extenuating circumstance would apply to progress requirements under the NHPP and the NHFP. As with the current allowance for existing extenuating circumstances, State DOTs would be required to provide sufficient evidence showing how the adverse impacts limited their ability to meet performance expectations in order to receive regulatory relief.

When originally drafted, a national public health emergency was not contemplated. The proposed addition of national emergency is intended to address this gap but is not expected to substantially change the types of allowable extenuating circumstances, nor is it expected to substantially increase the number of times extenuating circumstances are applied. Thus, FHWA has estimated this would result in a nominal reduction in burden.

It is possible that the extenuating circumstances listed in § 490.109(e)(5) may also impact a State DOT's ability to supply sufficient data or information, as required in § 490.109(e)(4). The FHWA has not proposed additional language to specify that a national emergency or any other extenuating circumstance will be considered in relation to FHWA's significant progress determination due to insufficient data or information, because it is already addressed by § 490.109(e)(5)(ii).

The FHWA is proposing to revise terms in § 490.109(f)(2)(iii)(A) to align with the HPMS as reflected in the updated HPMS Field Manual and incorporated by reference as part of this NPRM. See the section-by-section discussion in § 490.111 for further information on the proposed changes related to HPMS.

Section 490.111 Incorporation by Reference

The FHWA is proposing to restructure this section to conform with new Office of the Federal Register formatting requirements The FHWA is proposing updating the HPMS Field Manual that is currently incorporated by reference in § 490.111(b)(1). and included in the docket for this NPRM. The FHWA's HPMS software was updated to version 9, and the associated database fields that impact TPM were modified to address necessary changes identified in the 2018 HPMS Reassessment. The HPMS Field Manual was similarly updated to improve readability and reflect changes made to the HPMS software, processes, and table structures, as well as to data items, estimate types, and metadata. The

[2] National Performance Management Measures; Assessing Pavement Condition for the National Highway Performance Program and Bridge Condition for the National Highway Performance Program [RIN 2125–AF53], 82 FR 5886 at page 5921 (January 18, 2017).

regulations in part 490 contain several specific HPMS field names to ensure consistency in the data over time. Thus, it was necessary to update the individual instances in the regulation. The FHWA does not expect the field name changes within HPMS to present a burden to State DOTs when complying with the requirements of this part.

The proposed changes within the regulation to align with the terms in the incorporated HPMS Field Manual are:

Route_ID to RouteID
Begin_Point to BeginPoint
End_Point to EndPoint
Year_Record to BeginDate
Value_Date to ValueDate

Inventory data elements—This summary term was removed from the HPMS Field Manual. Where used in the regulation, FHWA is proposing replacing it with the specific data elements it represented.

The FHWA is proposing to remove the American Association of State Highway and Transportation Officials (AASHTO) Standard R48–10 (2013), Standard Specification for Transportation Materials and Methods of Sampling and Testing, Standard Practice for Determining Rut Depth in Pavements, 2014, 34th/2014 edition, in § 490.111(c)(3) since it has been withdrawn by AASHTO. The HPMS Field Manual addresses automated rut data collection methods so no additional AASHTO Standards are needed at this time.

The FHWA is proposing to update the AASHTO Standard in § 409.111(c)(4) from R36–13 to R36–21, Standard Specification for Transportation Materials and Methods of Sampling and Testing, Standard Practice for Evaluating Faulting of Concrete Pavements. This update to the Standard retains the two methods for measuring and calculating faulting using automated measurement devices. The most notable change to the new Standard is the incorporation of an acceptable third method for calculation of faulting using 3D techniques. This Standard is less restrictive than the original. A corresponding change is proposed in § 490.309(b)(3)(vii).

When FHWA published its first Transportation Performance Management Final Rule on March 15, 2016, at 81 FR 13882, it incorporated by reference at § 490.111(d) the ANSI D16.1–2007, Manual on Classification of Motor Vehicle Traffic Accidents (7th edition, approved August 2, 2007), and at § 490.111(e) the DOT's DOT HS 811 631, Model Minimum Uniform Crash Criteria (MMUCC) Guideline, (4th edition, July 2012). With the publication of the subsequent TPM rules on January 18, 2017, at 82 FR 5886 and 82 FR 5971, § 490.111(d) and (e) were inadvertently left out of the revised iterations of this section; however, there was no indication of the Agency's intent to remove the incorporation by reference of either publication given that the references remain in other sections of subpart B. The FHWA proposes to restore the ANSI and DOT paragraphs to reflect the incorporation of the publications, while updating ANSI D.16–2007 to ANSI D.16–2017 and the MMUCC to the 6th edition, which State DOTs are required to use for the definition for Suspected Serious Injury. Both documents are available for review on the docket for this rulemaking.

B. Subpart B—National Performance Management Measures for the Highway Safety Improvement Program

Section 490.205 Definitions

The FHWA proposes to revise five definitions to provide clarity and consistency for each as related to the regulation and to remove one definition that is no longer necessary. The purpose of the revisions is to clarify the terms and definitions.

The FHWA proposes to revise the term for ''5-year rolling average'' to ''3-year average'' and to revise the definition to align with the proposed shift to triennial (every 3 years) performance targets. The FHWA proposes to remove the term ''rolling'' to align with the proposed shift from establishing performance targets every year to establishing performance targets every 3 years to cover a 3-year period.

The FHWA proposes to establish a definition for 'baseline safety performance' to allow for a single term that can be used consistently in 23 CFR part 490 subpart B. The proposed term is consistent with the term used in 23 CFR 490.213(d), the definition is consistent with how the concept is currently applied in 23 CFR 490.211(c)(2)(ii), and would not change the requirements of the existing regulation.

The FHWA proposes to revise the definition for ''Fatality Analysis Reporting System (FARS)'' to align with the NHTSA definition in 23 CFR 1300.3.

The FHWA proposes to revise the definition for ''Number of non-motorized fatalities'' to remove the attribute code numbers and to further clarify the person types under ''Persons on Personal Conveyances'' to align with the coding change that was made to the person attribute code in the Fatality Analysis Reporting System (FARS).[3]

The FHWA proposes a minor technical edit to the definition for ''Number of non-motorized serious injuries'' to correct the spelling of ''pedalcyclist'' in the definition.

The FHWA proposes to revise the definition for ''Number of serious injuries'' to remove the reference to KABCO and the use of conversion tables. This requirement is no longer applicable as the KABCO scale is no longer used for this purpose.

The FHWA proposes to revise the definition for ''serious injuries'' to remove the references to KABCO and conversion tables, as well as the reference to April 15, 2019. This requirement is no longer applicable as the KABCO scale is no longer used for this purpose.

The FHWA proposes to remove the term and definition for ''KABCO'' to align with the proposed changes that no longer require the use of the term.

Section 490.207 National Performance Management Measures for the Highway Safety Improvement Program

The FHWA proposes to revise § 490.207(b) to replace ''5-year rolling average'' with ''3-year average'' to align with the proposed shift to establish performance targets every 3 years. In addition, in § 490.207(b)(1) through (5), FHWA proposes to change each instance of the term ''five'' to ''three'' to correspond with the changes to the years and calculations for changing to a 3-year average. The FHWA proposes to clarify each instance of ''target'' to ''performance target'' for consistency and clarity. This revision also occurs throughout §§ 490.207, 490.209, 490.211, and 490.213, but only this first instance is being documented here as it is a minor technical edit being made throughout the regulation. These proposed changes are expected to be a minimal burden to the State DOTs as it reduces the number of years of data required from 5 years to 3 years.

The FHWA proposes to remove § 490.207(c) as the requirement for State DOTs to report serious injuries by the April 15, 2019, deadline has passed, and the KABCO scale is no longer used for this purpose.

Section 490.209 Establishment of Performance Targets

The FHWA proposes to revise § 490.209(a) so State DOTs would shift from establishing performance targets

[3] National Highway Traffic Safety Administration Fatality Analysis Reporting System: *https://www.nhtsa.gov/research-data/fatality-analysis-reporting-system-fars.*

annually to triennially (every 3 years) for each performance measure. The purpose of this change is to align with DOT's National Roadway Safety Strategy (NRSS),[4] which sets an ambitious long-term goal of reaching zero fatalities. By providing a longer duration between performance cycles, States will have a greater opportunity to plan and implement safety countermeasures and evaluate the outcome and effectiveness of performance targets. This change to submit performance targets triennially also supports NHTSA's requirement under section 24102 of the BIL for States to submit a triennial Highway Safety Plan (HSP). The NHTSA has implemented this provision through a final rule published February 6, 2023, at 88 FR 7780. This change is necessary as it aligns with the State DOTs' requirement to report identical performance targets for three common measures between the HSIP and the triennial HSP. This proposed change is expected to be a minimal burden to the State DOTs as it reduces the requirement from reporting annually to triennially.

The FHWA proposes to revise § 490.209(a)(2) to reflect the proposed change to triennial performance targets, as well as add language that specifies when the first triennial performance target shall be established. In addition, FHWA proposes to change reporting from the ''HSIP annual report'' to ''reported to the FHWA.'' This proposed change is expected to be of minimal burden to State DOTs as it reduces the requirement from reporting annually to triennially.

The FHWA proposes to remove § 490.209(a)(4) and replace it with a new requirement for State DOTs to establish performance targets that ''demonstrate constant or improved performance from the baseline safety performance.'' This proposed requirement addresses the recent increase in fatalities by requiring performance targets to offer realistic expectations toward achieving the long-term goal of zero roadway fatalities, which is consistent with DOT's NRSS. This requirement also aligns with NHTSA's requirement under section 24102 of the BIL (23 U.S.C. 402(k)(4)(A)(ii)) that performance targets submitted as part of the triennial HSP demonstrate constant or improved performance. Although BIL did not make a similar amendment to the performance management requirements in 23 U.S.C. 148, there is no indication that Congress was attempting to undermine or change FHWA's and NHTSA's regulations that require identical performance targets for the three common measures. Likewise, there is nothing in Title 23 that prohibits FHWA from adopting the same ''constant or improved performance'' standard required by section 24102. Given the national crisis of fatalities on our roadways, FHWA believes it is good public policy to have the same requirement for its Safety Performance Management Program. The NHTSA has implemented this provision through a final rule published February 6, 2023, at 88 FR 7780. This proposed change is necessary as it aligns with the State DOTs' requirement to report identical performance targets for three common measures between HSIP and triennial HSP. This revision may impact the State DOTs that have set increasing performance targets in prior years as it may result in a shift in the methodology used to establish performance targets. However, requiring identical performance targets is consistent with the national safety goals Congress established for the Federal-aid highway program and NHTSA's highway safety program: To reduce traffic fatalities and serious injuries (in the case of FHWA) and to reduce traffic accidents and the resulting deaths, injuries, and property damage (in the case of NHTSA) (23 U.S.C. 150(b)(1) and 23 U.S.C. 402(a)). Furthermore, allowing a State to establish two different safety performance targets for common performance measures would be inefficient and could lead to public confusion. Separate performance targets could also be a burden on States by possibly requiring the collecting and reporting of two different sets of data for common performance measures in an HSIP and triennial HSP.

The FHWA proposes to remove § 490.209(a)(5), as the portion of this requirement related to use of the KABCO system in lieu of compliance with MMUCC is no longer applicable. In addition, the portion of this section that relates to reporting has been updated in § 490.213.

The FHWA proposes to shift § 490.209(a)(6) to § 490.209(a)(5) and revise § 490.209(a)(6) to change ''submitted in the HSIP annual report'' to ''submitted to the FHWA'' to align with paragraph (a)(2). The FHWA is not expecting State DOT performance targets to change for a given triennial cycle once submitted to FHWA. This is consistent with FHWA's current practice, in which safety performance targets cannot be changed once submitted to FHWA.

The FHWA proposes to revise § 490.209(b)(1) to remove reference to ''HSIP annual report'' to align with § 490.209(a)(2).

The FHWA proposes to remove § 490.209(b)(4) as this requirement is addressed under reporting in § 490.213.

The FHWA proposes to revise § 490.209(c) to add the word ''triennially'' for establishing performance targets for MPOs to align with the shift from annual to every 3 years.

The FHWA proposes to revise § 490.209(c)(1) to change ''HSIP annual report'' to ''the FHWA'' to align with the update to § 490.209(a)(2).

The FHWA proposes to revise § 490.209(c)(4)(i) to remove the term ''safety'' target and replace it with ''performance'' target for clarity and consistency.

The FHWA proposes to revise § 490.209(c)(4)(ii) to remove the term ''safety'' target and replace it with ''performance'' target for clarity and consistency and to add the language ''demonstrate constant or improved performance'' to align with § 490.209(a)(4).

Section 490.211 Determining Whether a State Department of Transportation Has Met or Made Significant Progress Toward Meeting Performance Targets

The FHWA proposes to revise § 490.211(b) to add the term ''annual'' to ''HSIP report'' for clarity and consistency and to add the word ''prepared'' before ''in accordance with.''

The FHWA proposes to revise § 490.211(c)(2) to use the newly defined ''baseline safety performance'' in place of ''3-year average data for the performance measure for the year prior to the establishment of the State's performance target.'' This would not change the existing process.

The FHWA proposes to revise § 490.211(d) to add the number ''3'' prior to ''fiscal years'' to align with the shift to triennial performance targets.

The FHWA proposes to revise § 490.211(e) to change ''first evaluate'' to ''determine'' and to change ''after the calendar year following the year'' to ''following the last calendar year'' and change ''annual'' to ''triennially.'' These proposed changes align with the revisions under § 490.209(a)(2).

The FHWA proposes to add a new § 490.211(f) to address the phased in implementation of the requirements that will enable the performance targets established for 2023 to continue to be assessed to determine met or made significant progress by 2025.

[4] DOT's National Roadway Safety Strategy: *https://www.transportation.gov/NRSS.*

The FHWA proposes to add a new § 490.211(g) to address insufficient data or information. The purpose of this requirement is to inform States that if they are not able to provide the necessary data in the HSIP annual report for the purposes of the performance target assessment that they will be deemed to have not met or made significant progress.

The FHWA proposes to add a new § 490.211(h) to consider extenuating circumstances in the assessment of progress toward met or made significant progress of triennial performance targets. In addition, FHWA proposes to add § 490.211(h)(1) to clarify that FHWA will classify the assessment of progress toward the triennial performance target as ''progress not determined'' if the State DOT has provided an explanation of the extenuating circumstances beyond the control of the State DOT that prevented it from meeting or making significant progress and the State DOT has quantified the impacts on the performance that resulted from the circumstances to include: (i) Natural or man-made disasters that caused delay in data collection; (ii) [Reserved] (iii) New law or regulation directing State DOTs to change metric or measure calculation; or (iv) Presidentially declared national emergency that impacts the collection or submittal of data. The circumstances added are intended to mirror those in § 490.109(e)(5)(i). With various governmental units and agencies possibly having the ability to declare disasters, FHWA proposes to clarify in § 490.211 that natural or man-made disasters must be declared under the Robert T. Stafford Disaster Relief and Emergency Assistance Act. In order to keep most of the section numbering consistent with § 490.109(e)(5)(i), FHWA is proposing to reserve § 490.211(h)(1)(ii) since FHWA does not provide any data associated with the safety performance measure.

The FHWA also proposes to add a new § 490.211(h)(2) that explains that if the State DOTs explanation is accepted by FHWA, then the progress toward achieving the relevant performance targets will be classified as ''progress not determined.'' These proposed changes are not expected to be a burden to the State DOTs; however, there may be a moderate impact on the burden to any State DOT that decides to pursue the option to provide documentation to quantify the impact resulting from the extenuating circumstance.

Section 490.213 Reporting of Performance Targets for the Highway Safety Improvement Program

The FHWA proposes to revise the title of § 490.213 to add the word ''performance'' before ''targets'' for clarity and consistency.

The FHWA proposes to revise § 490.213(a) to remove ''in the State's HSIP annual report'' and specify the first due date as ''[Date to be inserted], and then triennially thereafter.'' The purpose of this change is to align with the proposed change to shift to triennial performance targets. The FHWA will reflect a specific first due date that will align with the appropriate performance cycle during the rulemaking process.

The FHWA proposes to add a new § 490.213(b) to specify that State DOTs shall report on actual performance annually in the HSIP annual report and the minimum amount of data that is required. The purpose of this change is to move this information that was originally under § 490.209 for the establishment of performance targets to reporting of performance targets in the HSIP. The FHWA proposes to also shift the original paragraphs (b) and (c) to now be (c) and (d).

The FHWA proposes to revise old paragraph (b) to now be (c) and to change ''annually'' to ''triennially'' to align with the proposed shift to establish performance targets every 3 years.

The FHWA proposes to revise old paragraph (c) to now be (d) and delete the word ''safety'' from ''safety performance'' for clarity and consistency.

C. Subpart C—National Performance Management Measures for the Assessing Pavement Condition

Section 490.309 Data Requirements

The FHWA is proposing revisions to § 490.309(a) to remove 'inventory data elements' here, as well as from all 23 CFR part 490, since that term and associated grouping is not in the incorporated HPMS Field Manual. In addition, FHWA is proposing a technical correction to include underscores in 'Through_Lanes,' 'Surface_Type,' and 'Structure_Type,' consistent with other parts of the regulation. The FHWA also is proposing corrections to § 490.309(c) to include underscores in the same terms. These corrections are not expected to change implementation of the associated requirements.

The FHWA is proposing amending §§ 490.309(b)(1)(i)(B), (b)(2)(i)(B), and (b)(2)(ii)(B) to clarify that when the right most lane is not readily accessible due to a listed issue, then the adjacent lane is to be used; not any open lane. This will align the regulation with existing guidance.

The FHWA is proposing to amend §§ 490.309(b)(1)(iv)(A) and (b)(2)(iii)(A) so the numbers '0 to 5' would be shown to the tenths decimal place, '0.1 to 5.0', to be consistent with how the data is entered in HPMS.

The FHWA is proposing to revise § 490.309(b)(3)(vi) and remove (b)(3)(vi)(A) and (B). The FHWA is proposing to remove § 490.309(b)(3)(vi)(A) because AASHTO has withdrawn Standard R48 that provided guidance for this type of data collection. As a result, States will be required to use the methods identified in the HPMS Field Manual when collecting rutting data on the National Highway System (NHS).

The FHWA is proposing to revise § 490.309(b)(3)(vii) to change the incorporated AASHTO Standard from 'R36–13' to 'R36–21.' The AASHTO Standard R36–21 is an update to Standard R36–13, which retains the two methods for measuring and calculating faulting using automated measurement devices. The major change from the old standard to the new standard is the incorporation of an acceptable third method for calculation of faulting.

Section 490.311 Calculation of Pavement Metrics

The FHWA is proposing changes to § 490.311(a) to remove 'inventory data elements' since that term and associated grouping is not in the proposed HPMS Field Manual.

The FHWA is proposing to amend § 490.311(b)(5)(ii) so the numbers '0 to 5' would be shown to the tenths decimal place, '0.1 to 5.0', to be consistent with how the data is entered in HPMS.

The FHWA is proposing to revise the HPMS field names in § 490.311(c)(3)(i), (c)(3)(ii), and (c)(3)(iii) so they are consistent with the updated HPMS system, and the HPMS Field Manual.. The FHWA also proposes to add specificity to clarify that the 'BeginDate' shall be reported as required in the HPMS Field Manual. The term changes proposed are:

State_Code to StateID,
Route_ID to RouteID
Begin_Point to BeginPoint
End_Point to EndPoint
Year_Record to BeginDate
Value_Date to ValueDate.

These changes are to provide consistency with the terms used in the incorporated HPMS Field Manual and are not expected to change the burden associated with complying with the regulations.

The FHWA proposes to revise §§ 490.311(d), (d)(1), (d)(2), and (d)(3) to change the term 'inventory data elements' to 'data items,' and change 'inventory data items' to 'data items.' These changes are needed to be consistent with the incorporated HPMS Field Manual, which no longer uses these terms.

Section 490.313 Calculation of Performance Management Measures

The FHWA is proposing changes to § 490.313(b)(4) and its paragraphs to clarify the intended application of the regulation by rewording and reorganizing the text and providing cross references to existing requirements for data submittal dates. No new requirements or processes are proposed, and the clarifications are consistent with FHWA's existing guidance related to missing, invalid, or unresolved data. The FHWA also proposes updating terms in §§ 490.313(b)(v)(i) through (vii) to align with those used in the incorporated HPMS Field Manual, and correcting reference numbering related to § 490.109(d) in § 490.313(b)(v). Together these changes are not expected to change the implementation of the requirements.

In § 490.313(f)(2) through (5), FHWA is proposing to remove the underscore from the terms ''End_Point'' and ''Begin_Point'' so it is consistent with the fields in the incorporated HPMS Field Manual.

Section 490.317 Penalties for Not Maintaining Minimum Interstate System Pavement Condition

The FHWA proposes to amend § 490.317(c) by adding a new § 490.317(c)(1) providing that FHWA can use the previous years' determination of compliance with the minimum condition requirements in § 490.315(a) or § 490.315(b) and 23 U.S.C. 119(f)(1) if FHWA determines a State DOT is not in compliance due to an extenuating circumstance listed in § 490.109(e)(5) related to the collection or submittal of data. Accurate data is required to make the compliance determination, and FHWA cannot waive the determination. During the COVID–19 pandemic, FHWA identified that it was possible that some State DOTs would be unable to collect pavement condition data because of COVID–19 related social distancing requirements. The FHWA is proposing to add § 490.317(c)(1) to allow FHWA to consider extenuating circumstances in their determination when sufficient data is not provided. State DOTs would need to notify FHWA of any applicable extenuating circumstances it would like FHWA to consider by June 15 of each year, as proposed in § 490.317(c)(2).

This additional flexibility would allow State DOTs to provide an explanation of the conditions beyond their control that impeded their ability to submit the data needed to calculate the pavement performance measures and determine minimum condition. This action will allow State DOTs to cite one of the extenuating circumstances in § 490.109(e)(5) and explain how it impacted their ability to collect or submit data. As with the use of extenuating circumstances in the significant progress determination, there would need to be sufficient evidence showing how the adverse impacts limited a State DOT's ability to meet the data collection and submittal requirements. If a State DOT provides an acceptable explanation of extenuating circumstances by June 15, FHWA would apply the previous year's determination to the determination for the current year.

Including this additional flexibility as part of FHWA's compliance determination for 23 U.S.C. 119(f)(1) would align with the intent of extenuating circumstances and its application within the significant progress determination process. The FHWA has determined this is an appropriate and necessary action but does not anticipate this to be used in the near-term.

The FHWA is not proposing a similar amendment to § 490.413, which relates to penalties for not maintaining minimum bridge conditions. Bridges are inspected every 2 years. If a bridge is not inspected due to an unforeseen issue, the existing National Bridge Inspection (NBI) data is used for FHWA's determination of compliance with 23 U.S.C. 119(f)(2). In addition, the penalty for not maintaining minimum bridge condition, described in § 490.413, is assessed using data for the previous 3 years. These items provide flexibilities not available to the Interstate System pavement condition measures.

Section 490.319 Other Requirements

Section 490.319(c)(1) describes the minimum methods and processes the State DOTs shall include in their Data Quality Management Programs. The FHWA proposes to revise § 490.319(c)(1)(ii) to strike the word ''manual'' from the requirement to certify persons conducting data collection. A certification process was required in the original rule for the equipment and for individuals doing manual data collection but omitted equipment operators and other persons working in data collection. This change extends the certification to all persons conducting data collection including equipment operators. Network level data collection is done almost completely using automated equipment. Since the process for data collection is complex and the equipment is costly, every State already has process for training operators and other persons working in data collection even though there has not been a requirement to do so. A minor update to the Data Quality Management Plan for the State may be needed to describe the training program and certification process if it is not already in the Plan. The FHWA seeks comment from any State DOTs that do not already require training for those collecting data and operating associated equipment.

D. Discussion Under 1 CFR Part 51

The FHWA is proposing to incorporate by reference the following standards:

The FHWA will incorporate by reference an updated version of the HPMS Field Manual. The proposed HPMS Field Manual includes detailed information on technical procedures to be used as reference by those collecting and reporting data for the performance measures. The FHWA's HPMS software was updated to version 9, and the associated database fields that impact TPM were modified to address necessary changes. The updated HPMS Field Manual is included on the docket for this rulemaking and will be made available on the FHWA website once adopted.

The FHWA will incorporate by reference AASHTO Standard R36–21, Standard Practice for Evaluating Faulting of Concrete Pavements, 41st edition, 2021. This Standard provides a consistent means for identifying and reporting concrete pavement faults. The AASHTO standard is proposed because it is considered a best practice, specifically by State DOTs, and is recognized worldwide. This document is available at *https://store.transportation.org/Item/PublicationDetail?ID=4612* and on the docket for this rulemaking.

The FHWA will incorporate by reference ANSI D.16–2017, Manual on Classification of Motor Vehicle Traffic Crashes, eight edition, approved December 18, 2017. The primary purpose of ANSI D.16–2017 is to promote uniformity and comparability of motor vehicle crash statistics in Federal, State, and local jurisdictions. The uniformity of reporting that results from this standard facilitates development of data on crashes in and

out of traffic for nationwide use. Such data becomes the basis for decisions about traffic safety initiatives throughout the country. This document is available at *https://www.transportation.gov/government/traffic-records/updated-ansi-d16-manual-classification-motor-vehicle-traffic-crashes,* and on the docket for this rulemaking.

The FHWA will incorporate by reference DOT HS 813 525 (''MMUCC''), Model Minimum Uniform Crash Criteria Guideline, 6th edition, 2024.. The MMUCC can help States generate the data necessary to quickly gain traffic safety insights. The guide is available at *https://www.nhtsa.gov/mmucc-1* and on the docket for this rulemaking.

The documents that FHWA is incorporating by reference are reasonably available to interested parties, primarily State DOTs, local agencies, and Tribal governments carrying out Federal-aid highway projects, and federally required data reporting. The incorporated HPMS Field Manual represents the reporting requirements of the HPMS system. The AASHTO manual, MMUCC, and Manual on Classification of Motor Vehicle Traffic Accidents represent the most recent refinements that professional organizations have formally accepted and are currently in use by the transportation industry. The documents incorporated by reference are available on the docket of this rulemaking and at the sources identified in the regulatory text below. The specific standards are discussed in greater detail elsewhere in this preamble.

III. Additional Requests for Comments

- The MAP–21 legislation required FHWA to develop a uniform method for States to measure and report pavement conditions indicating investment needs and mobility on the Interstate and non-Interstate NHS. This methodology is contained in § 490.313 and uses the HPMS for reporting pavement conditions. After experiencing the first 5 years of collecting and reporting this information, FHWA invites comments on the effectiveness of the methodology for the intended purposes and suggestions to improve the required measurement and reporting.
- To minimize the amount of missing pavement data reported to HPMS, the current regulations direct States to collect condition information from another lane when the right most lane is closed due to construction, closure, excessive congestion, or other events impacting access. Some States have indicated difficulties collecting condition information in areas under construction due to bridge replacements, detours, or other circumstances. The FHWA invites comments on how to best collect and report the required information in these challenging situations.
- For the purpose of carrying out 23 U.S.C. 148, the Secretary is required to establish measures for States to use to assess (A) serious injuries and fatalities per vehicle mile traveled; and (B) the number of serious injuries and fatalities (23 U.S.C. 150(c)(4)). The FHWA is seeking comments on possible alternative safety performance measures that could be used to assess safety performance related to the HSIP. These performance measures should be directly related to the State's HSIP and help provide quantifiable evidence toward progress of safety performance. These performance measures may evaluate the outputs (quantitative and indicate the level of activity or effort) or outcomes (provide an indication of effectiveness) resulting in the implementation of the HSIP. The FHWA also seeks comment on whether FHWA should maintain the existing safety performance measures, replace the existing safety performance measures with alternative safety performance measures, or use some combination of both to assess future safety performance.
- The existing TPM measures for pavement and bridge condition in 23 U.S.C. 150(c)(3) are limited to the Interstate and NHS. However, there is also considerable need on the non-NHS system for infrastructure improvements. For example, approximately 90 percent of the bridges in poor condition in the 2022 National Bridge Inventory dataset are non-NHS bridges. Would State DOTs and MPOs benefit from the creation of national performance measures for the non-NHS system? For non-NHS bridges, condition data is already collected and reported annually to FHWA and can be used to set targets and report on performance. For non-NHS pavement performance, FHWA collects condition data on a sample of these roadways in each State. What would be reasonable measures, target setting timelines, data collection methods, reporting frequency, and reporting methods for any non-NHS measures? If such national performance measures are created, what would be needed to collect, report, and analyze non-NHS data and implement such a program?

IV. Rulemaking Analyses and Notices

A. Executive Order (E.O.) 12866 (Regulatory Planning and Review), E.O. 13563 (Improving Regulation and Regulatory Review), E.O. 14094 (Modernizing Regulatory Review), and DOT Regulatory Policies and Procedures

The FHWA has considered the impacts of this proposed rule under E.O. 12866 (58 FR 5173, Oct. 4, 1993), Regulatory Planning and Review, as supplemented by E.O. 13563 (76 FR 3821, Jan. 21, 2011), Improving Regulation and Regulatory Review and E.O. 14094 (88 FR 21879, April 6, 2023), Modernizing Regulatory Review, and DOT's regulatory policies and procedures. The Office of Information and Regulatory Affairs within the Office of Management and Budget (OMB) has determined that the proposed rule is not a significant regulatory action within the meaning of E.O. 12866. Accordingly, OMB has not reviewed it under that E.O.

It is anticipated that the proposed rule would not be economically significant for purposes of E.O. 12866. The proposed rule would not have an annual effect on the economy of $200 million or more. The proposed rule would not adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, territorial, or Tribal governments or communities. In addition, the proposed changes would not interfere with any action taken or planned by another Agency and would not materially alter the budgetary impact of any entitlements, grants, user fees, or loan programs.

B. Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601–612), FHWA has evaluated the effects of this proposed rule on small entities and has determined that it is not anticipated to have a significant economic impact on a substantial number of small entities. For FHWA's significant progress determination in § 490.109(e) and for the minimum condition requirements for Interstate pavements in § 490.317, the proposed rule would affect State governments, but not MPOs since MPOs are not subject to these requirements. State governments are not included in the definition of small entity set forth in 5 U.S.C. 601. For FHWA's proposed triennial safety performance reporting, both MPOs and State DOTs would be affected, but the proposed changes are expected to reduce overall burden. Therefore, FHWA certifies that the proposed rule

will not have a significant economic impact on a substantial number of small entities.

C. Unfunded Mandates Reform Act of 1995

This proposed rule would not impose unfunded mandates as defined by the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, 109 Stat. 48). This proposed rule would not result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of $168 million or more in any one year (2 U.S.C. 1532). In addition, the definition of ''Federal Mandate'' in the Unfunded Mandates Reform Act excludes financial assistance of the type in which State, local, or Tribal governments have authority to adjust their participation in the program in accordance with changes made in the program by the Federal Government. The Federal-aid highway program permits this type of flexibility.

D. E.O. 13132 (Federalism Assessment)

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

E. Paperwork Reduction Act of 1995

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501, *et seq.*), Federal agencies must obtain approval from OMB for each collection of information they conduct, sponsor, or require through regulations. The FHWA has determined that this proposal does not contain any new collection of information requirements for the purposes of the PRA.

This proposed rule expands upon existing flexibilities that are implemented as part of the overarching TPM regulations in 23 CFR part 490, which includes State DOT reporting on performance biennially. The collection of biennial report information in support of § 490.107, including the State DOT's documentation of any applicable extenuating circumstances described in § 490.105(e), is covered by OMB Control No. 2125–0656.

The proposed rule would change the reporting on safety performance targets from annual to triennial. Targets and performance would be reported on in the HSIP annual report. The collection of information in support of § 490.213 is covered by OMB Control No 2125–0025.

F. National Environmental Policy Act

The FHWA has analyzed this proposed rule pursuant to the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*) and has determined that it is categorically excluded under section 771.117(c)(20), which applies to the promulgation of rules, regulations, and directives. Categorically excluded actions meet the criteria for categorical exclusions under the Council on Environmental Quality regulations and under section 771.117(a) and normally do not require any further NEPA approvals by FHWA.

G. E.O. 13175 (Tribal Consultation)

The FHWA has analyzed this proposed rule in accordance with the principles and criteria contained in E.O. 13175, ''Consultation and Coordination with Indian Tribal Governments.'' The proposed rule would implement additional flexibilities in 23 CFR part 490 related to FHWA determination of significant progress toward State DOT NHPP and NHFP measure, and FHWA's determination of State DOT's compliance with Interstate pavement minimum conditions. The requirements of 23 CFR part 490 apply to States that receive Title 23 Federal-aid highway funds, and it would not have substantial direct effects on one or more Indian Tribes, would not impose substantial direct compliance costs on Indian Tribal governments, and would not preempt Tribal laws. Accordingly, the funding and consultation requirements of E.O. 13175 do not apply and a Tribal summary impact statement is not required.

I. E.O. 12898 (Environmental Justice)

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

J. Regulation Identifier Number

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

List of Subjects in 23 CFR Part 490

Bridges, Highway safety, Highways and roads, Incorporation by reference, Reporting and recordkeeping requirements.

Issued under authority delegated in 49 CFR 1.81 and 1.85.

Shailen P. Bhatt,

Administrator, Federal Highway Administration.

In consideration of the foregoing, FHWA proposes to amend 23 CFR part 490, as set forth below:

PART 490—NATIONAL PERFORMANCE MANAGEMENT MEASURES

■ 1. The authority citation for part 490 is revised to read as follows:

Authority: 23 U.S.C. 134, 135, 148, and 150; 49 CFR 1.85.

Subpart A—General Information

■ 2. Amend § 490.103 by:
■ a. In paragraph (b), adding the text ''(incorporated by reference, see § 490.111)'' immediately following the text ''HPMS Field Manual''; and
■ b. Adding paragraph (h).
The additions read as follows:

§ 490.103 Data requirements.

* * * * *

(h) *In general.* FHWA may temporarily extend any date within this part for good reason, unless prohibited by law.

■ 3. Amend § 490.105 by revising paragraphs (e)(8)(iii) and (f)(5)(iii) by removing the text ''and/or'' and adding, in its place the text ''and'' in each place it appears.

■ 4. Amend § 490.107 by revising paragraphs (b)(1)(ii)(E), (b)(2)(ii)(D), and (b)(3)(ii)(D) to read as follows:

§ 490.107 Reporting on performance targets.

* * * * *

(b) * * *

(1) * * *

(ii) * * *

(E) *Congestion at truck freight bottlenecks.* The State DOT shall document the location of truck freight bottlenecks within the State, including those identified in the National Freight Strategic Plan. If a State has prepared a State Freight Plan under 49 U.S.C. 70202, then the State Freight Plan may serve as the basis for identifying truck freight bottlenecks;

* * * * *

(2) * * *

(ii) * * *

(D) *Congestion at truck freight bottlenecks.* Discussion on progress of the State DOT's efforts in addressing congestion at truck freight bottlenecks within the State, as described in paragraph (b)(1)(ii)(E) of this section, through comprehensive freight improvement efforts of State Freight Plan or MPO freight plans; the Statewide Transportation Improvement Program and Transportation Improvement Program; regional or corridor level efforts; other related planning efforts; and operational and capital activities targeted to improve freight movement on the Interstate System. If a State has prepared a State Freight Plan under 49 U.S.C. 70202, then the State Freight Plan may serve as the basis for addressing congestion at truck freight bottlenecks. However, the discussion must provide an update from the information submitted in the previous State Biennial Performance Report;

* * * * *

(3) * * *

(ii) * * *

(D) *Congestion at truck freight bottlenecks.* Discussion on progress of the State DOT's efforts in addressing congestion at truck freight bottlenecks within the State, as described in paragraphs (b)(1)(ii)(E) and (b)(2)(ii)(D) of this section;

* * * * *

■ 5. Amend § 490.109 by:

■ a. Removing the text ''and/or'' and adding, in its place, the text ''or'' in each place it appears;

■ b. Revising paragraphs (e)(4) paragraph heading, (e)(4)(ii) through (v) and (e)(5)(i)(A) through (C);

■ c. Adding paragraph (e)(5)(i)(D); and

■ d. Revising paragraph (f)(2)(iii)(A).

The revisions and addition read as follows:

§ 490.109 Assessing significant progress toward achieving the performance targets for the National Highway Performance Program and the National Highway Freight Program.

* * * * *

(e) * * *

(4) *Insufficient data or information.*

* * *

* * * * *

(ii) The data contained in HPMS do not meet the requirements under § 490.313(b)(4)(i) by the data extraction date specified in paragraph (d)(1)(i) of this section for the each of the Interstate System pavement condition measures in § 490.105(c)(1);

(iii) The data contained in HPMS do not meet the requirements under § 490.313(b)(4)(ii) by the data extraction date specified in paragraph (d)(1)(ii) of this section for the each of the non-Interstate NHS pavement condition measures in § 490.105(c)(2);

(iv) A State DOT reported data are not cleared in the NBI by the data extraction date specified in paragraph (d)(1)(iii) of this section for the each of the NHS bridge condition measures in § 490.105(c)(3);

(v) If a State DOT's data is determined insufficient, as described in paragraphs (e)(4)(ii) through (iv) of this section, in the year in which the Baseline Period Performance Report is due to FHWA for a measure in § 490.105(c)(1) through (3), the FHWA will determine the State DOT did not satisfy the criterion in paragraph (e)(2)(i) of this section, and FHWA will only use the criterion in (e)(2)(ii) of this section for determining if State DOT has made significant progress toward the achievement of the target for that measure for the entirety of the performance period.

* * * * *

(5) * * *

(i) * * *

(A) Natural or man-made disasters that caused delay in NHPP or NHFP project delivery, extenuating delay in data collection, or damage/loss of data system;

(B) Sudden discontinuation of Federal Government furnished data due to natural and man-made disasters declared under the Robert T. Stafford Disaster Relief and Emergency Assistance Act or sudden discontinuation of Federal Government furnished data due to lack of funding;

(C) New law or regulation directing State DOTs to change metric or measure calculation; or

(D) Presidentially declared national emergency that caused delay in NHPP or NHFP project delivery, extenuating delay in data collection or submittal, or damage/loss of data system.

* * * * *

(f) * * *

(2) * * *

(iii) * * *

(A) The inventory of truck freight bottlenecks shall include the route and milepost location for each identified bottleneck, road attributes data reported to HPMS, Average Annual Daily Traffic (AADT), Single-Unit Truck and Bus AADT (AADT_Single_Unit), Combination Truck AADT (AADT_Combination), Travel-time data and measure of delay, such as travel time reliability, or Average Truck Speeds, capacity feature causing the bottleneck or any other constraints applicable to trucks, such as geometric constrains, weight limits or steep grades.

* * * * *

■ 6. Revise § 490.111 to read as follows:

§ 490.111 Incorporation by reference.

Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, the Federal Highway Administration (FHWA) must publish a document in the **Federal Register** and the material must be available to the public. All approved incorporation by reference (IBR) material is available for inspection at FHWA and at the National Archives and Records Administration (NARA). Contact the FHWA at FHWA, Office of Highway Policy Information at 1200 New Jersey Avenue SE, Washington, DC 20590; (202–366–4631); *www.fhwa.dot.gov.* For information on the availability of this material at NARA, visit *www.archives.gov/federal-register/cfr/ibr-locations* or email *fr.inspection@nara.gov.* The material may be obtained from the sources in the following paragraphs of this section.

(a) The American Association of State Highway and Transportation Officials (AASHTO), 555 12th Street NW, Suite 1000, Washington, DC 20004; (202) 624–5800; *www.transportation.org.*

(1) AASHTO Standard M328–14, Standard Specification for Transportation Materials and Methods of Sampling and Testing, Inertial Profiler, 2014, 34th/2014 Edition; IBR approved for § 490.309(b).

(2) AASHTO Standard R57–14, Standard Specification for Transportation Materials and Methods of Sampling and Testing, Standard Practice for Operating Inertial Profiling Systems, 2014, 34th/2014 Edition; IBR approved for § 490.309(b).

(3) AASHTO Standard R36–21, Standard Specification for Transportation Materials and Methods of Sampling and Testing, Standard Practice for Evaluating Faulting of Concrete Pavements, 41st/2021 edition, 2021 (*https://store.transportation.org/Item/PublicationDetail?ID=4612*); IBR approved for § 490.309(b).

(4) AASHTO Standard R43–13, Standard Specification for Transportation Materials and Methods of Sampling and Testing, Standard Practice for Quantifying Roughness of Pavement, 2014, 34th/2014 Edition, IBR approved for § 490.311(b).

(b) American National Standards Institute, Inc. (ANSI), 1899 L Street NW, 11th Floor, Washington, DC 20036; (202) 293–8020; *www.ansi.org.*

(1) ANSI D16.1–2017, Manual on Classification of Motor Vehicle Traffic Accidents, 8th edition, approved

December 18, 2017; IBR approved for § 490.205.

(2) [Reserved]

(c) The Federal Highway Administration, 1200 New Jersey Avenue SE, Washington, DC 20590; (202) 366–4631; *www.fhwa.dot.gov.*

(1) Highway Performance Monitoring System Field Manual (''HPMS Field Manual''), [Publication Year]; IBR approved for §§ 490.103; 490.309(a) and (b); 490.311; 490.319(a) and (b).

(2) Recording and Coding Guide for the Structure Inventory and Appraisal of the Nation's Bridges, includes: Errata Sheet for Coding Guide 06/2011, Report No. FHWA–PD–96–001, December 1995; IBR approved for *§§ 490.409*(e); *490.411*(f).

(d) The National Highway Transportation Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590; (888) 327–4236; *www.nhtsa.gov.*

(1) DOT HS 813 525 (''MUCC''), Model Minimum Uniform Crash Criteria Guideline, 6th edition, 2024 (*https://www.nhtsa.gov/mmucc-1*); IBR approved for § 490.205.

(2) [Reserved]

Subpart B—National Performance Management Measures for the Highway Safety Improvement Program

■ 7. Amend § 490.205 by:

■ a. Removing the definition for '5-year rolling average' and adding, in its place, the definition for ''3-year average'';

■ b. Adding the definition for ''Baseline safety performance'';

■ c. Revising the definition for ''Fatality Analysis Reporting System''

■ d. Removing the definition for ''KABCO'';

■ e. Revising the definitions for ''Number of non-motorized fatalities'', ''Number of non-motorized serious injuries'', ''Number of serious injuries}, and ''Serious injuries''.

The additions and revisions read as follows:

§ 490.205 Definitions.

* * * * *

3-year average means the average of 3 individual, consecutive annual points of data (*e.g.,* the 3-year average of the annual fatality rate).

* * * * *

Baseline safety performance means the 3-year average data for a safety performance measure for the year prior to the establishment of the performance target reported to FHWA.

* * * * *

Fatality Analysis Reporting System (FARS) means the nationwide census providing yearly public data regarding fatal injuries suffered in motor vehicle traffic crashes, as published by NHTSA.

* * * * *

Number of non-motorized fatalities means the total number of fatalities (as defined in this section) with the FARS person attribute codes for Pedestrian, Bicyclist, Other Cyclist, and Person on Personal Conveyance (includes motorized, non-motorized, and unknown whether it was motorized or non-motorized).

Number of non-motorized serious injuries means the total number of persons suffering at least one serious injury (as defined in 'Number of serious injuries') where the injured person is, or is equivalent to, a pedestrian (2.2.36) or a pedalcyclist (2.2.39) as defined in the ANSI D16.1–2017 (incorporated by reference, see § 490.111).

Number of serious injuries means the total number of persons suffering at least one serious injury for each separate motor vehicle traffic crash during a calendar year, as reported by the State, where the crash involves one or more motor vehicles in-transport, that originated on or had at least one harmful event (*i.e.,* injury or damage) on a trafficway, and the injury status is ''(A) suspected serious injury'' as described in MMUCC, (incorporated by reference, see § 490.111).

* * * * *

Serious injuries means a ''(A) suspected serious injury'' as defined in the MMUCC.

■ 8. Revise § 490.207 to read as follows:

§ 490.207 National performance management measures for the Highway Safety Improvement Program.

(a) There are five performance measures for the purpose of carrying out the HSIP. They are:

(1) Number of fatalities;

(2) Rate of fatalities;

(3) Number of serious injuries;

(4) Rate of serious injuries; and,

(5) Number of non-motorized fatalities and non-motorized serious injuries.

(b) Each performance measure is based on a 3-year average. The performance measures are calculated as follows:

(1) The performance measure for the number of fatalities is the 3-year average of the total number of fatalities for each State and shall be calculated by adding the number of fatalities for each of the most recent 3 consecutive years ending in the year for which the performance targets are established, dividing by 3, and rounding to the tenths decimal place. FARS Annual Report File (ARF) may be used if Final FARS is not available.

(2) The performance measure for the rate of fatalities is the 3-year average of the State's fatality rate per VMT and shall be calculated by first calculating the number of fatalities per 100 million VMT for each of the most recent 3 consecutive years ending in the year for which the performance targets are established, adding the results, dividing by 3, and rounding to the thousandths decimal place. The FARS ARF may be used if Final FARS is not available. State VMT data are derived from the HPMS. The Metropolitan Planning Organizations (MPO) VMT is estimated by the MPO. The sum of the fatality rates is divided by three and then rounded to the thousandths decimal place.

(3) The performance measure for the number of serious injuries is the 3-year average of the total number of serious injuries for each State and shall be calculated by adding the number of serious injuries for each of the most recent 3 consecutive years ending in the year for which the performance targets are established, dividing by three, and rounding to the tenths decimal place.

(4) The performance measure for the rate of serious injuries is the 3-year average of the State's serious injuries rate per VMT and shall be calculated by first calculating the number of serious injuries per 100 million VMT for each of the most recent 3 consecutive years ending in the year for which the performance targets are established, adding the results, dividing by three, and rounding to the thousandths decimal place. State VMT data are derived from the HPMS. The MPO VMT is estimated by the MPO.

(5) The performance measure for the number of non-motorized fatalities and non-motorized serious injuries is the 3-year average of the total number of non-motorized fatalities and non-motorized serious injuries for each State and shall be calculated by adding the number of non-motorized fatalities to the number non-motorized serious injuries for each of the most recent 3 consecutive years ending in the year for which the performance targets are established, dividing by three, and rounding to the tenths decimal place. FARS ARF may be used if Final FARS is not available.

■ 9. Revise § 490.209 to read as follows:

§ 490.209 Establishment of performance targets.

(a) State DOTs shall establish performance targets triennially for each performance measure identified in § 490.207(a) in a manner that is consistent with the following:

(1) State DOT performance targets shall be identical to the performance

targets established by the State Highway Safety Office for common performance measures reported in the State's triennial Highway Safety Plan, subject to the requirements of 23 U.S.C. 402(k)(4), and as coordinated through the State Strategic Highway Safety Plan.

(2) State DOT performance targets shall represent performance outcomes triennially (every third calendar year). The first triennial performance targets will be established in [year to be inserted] and will represent performance for calendar years [year to be inserted] through [year to be inserted] based on a 3-year average. The performance targets shall be reported to the FHWA consistent with the requirements in § 490.213(a).

(3) State DOT performance targets shall represent the anticipated performance outcome for all public roadways within the State regardless of ownership or functional class.

(4) State DOT performance targets shall demonstrate constant or improved performance from the baseline safety performance.

(5) Unless approved by FHWA and subject to § 490.209(a)(1), a State DOT shall not change one or more of its performance targets for a given triennial cycle once submitted to the FHWA.

(b) In addition to performance targets described in paragraph (a) of this section, State DOTs may, as appropriate, for each performance target in paragraph (a) of this section establish additional performance targets for portions of the State.

(1) A State DOT shall declare and describe the boundaries used to establish each additional performance target, as required by § 490.213(a).

(2) State DOTs may select any number and combination of urbanized area boundaries and may also select a single non-urbanized area boundary for the establishment of additional performance targets.

(3) The boundaries used by the State DOT for additional performance targets shall be contained within the geographic boundary of the State.

(c) The Metropolitan Planning Organizations (MPO) shall establish performance targets triennially for each of the measures identified in § 490.207(a), where applicable, in a manner that is consistent with the following:

(1) The MPOs shall establish performance targets not later than 180 days after the respective State DOT establishes and reports performance targets to the FHWA.

(2) The MPO performance targets shall represent performance outcomes anticipated for the same calendar years as the State DOT performance targets.

(3) After the MPOs within each State establish the performance targets, the State DOT must be able to provide those performance targets to FHWA, upon request.

(4) For each performance measure, the MPOs shall establish a performance target by either:

(i) Agreeing to plan and program projects so that they contribute toward the accomplishment of the State DOT performance target for that performance measure; or

(ii) Committing to a quantifiable performance target that demonstrates constant or improved performance for that performance measure for their metropolitan planning area.

(5) The MPOs that establish quantifiable fatality rate or serious injury rate performance targets shall report the VMT estimate used for such performance targets and the methodology used to develop the estimate. The methodology should be consistent with other Federal reporting requirements, if applicable.

(6) The MPO performance targets established under paragraph (c)(4) of this section specific to the metropolitan planning area shall represent the anticipated performance outcome for all public roadways within the metropolitan planning boundary regardless of ownership or functional class.

(d)(1) The State DOT and relevant MPOs shall coordinate on the establishment of performance targets in accordance with 23 CFR part 450 to ensure consistency, to the maximum extent practicable.

(2) The MPOs with multi-State boundaries that agree to plan and program projects to contribute toward State DOT performance targets in accordance with paragraph (c)(4)(i) of this section shall plan and program safety projects in support of the State DOT performance targets for each area within each State (*e.g.,* MPOs that extend into two States shall agree to plan and program projects to contribute toward two separate sets of performance targets (one set for each State)).

■ 10. Revise § 490.211 to read as follows:

§ 490.211 Determining whether a State department of transportation has met or made significant progress toward meeting performance targets.

(a) The determination for having met or made significant progress toward meeting the performance targets under 23 U.S.C. 148(i) will be determined based on:

(1) The most recent available Final FARS data for the fatality number. The FARS ARF may be used if Final FARS is not available;

(2) The most recent available Final FARS and HPMS data for the fatality rate. The FARS ARF may be used if Final FARS is not available;

(3) The most recent available Final FARS data for the non-motorized fatality number. The FARS ARF may be used if Final FARS is not available;

(4) State reported data for the serious injuries number;

(5) State reported data and HPMS data for the serious injuries rate; and

(6) State reported data for the non-motorized serious injuries number.

(b) The State-reported serious injury data and non-motorized serious injury data will be taken from the HSIP annual report, prepared in accordance with 23 CFR part 924.

(c) The FHWA will evaluate whether a State DOT has met or made significant progress toward meeting performance targets.

(1) The FHWA will not evaluate any additional performance targets a State DOT may establish under § 490.209(b).

(2) A State DOT is determined to have met or made significant progress toward meeting its performance targets when at least four of the performance targets established under § 490.207(a) are:

(i) Met; or

(ii) The outcome for a performance measure is less than the baseline safety performance for a performance measure. For example, of the State DOT's five performance targets, the State DOT is determined to have met or made significant progress toward meeting its performance targets if it met two performance targets and the outcome is less than the measure for the year prior to the establishment of the performance target for two other performance targets.

(d) If a State DOT has not met or made significant progress toward meeting performance targets in accordance with paragraph (c) of this section, the State DOT must comply with 23 U.S.C. 148(i) for the subsequent 3 fiscal years.

(e) The FHWA will determine whether a State DOT has met or made significant progress toward meeting performance targets following the last calendar year for which the performance targets are established, and then triennially thereafter.

(f) The FHWA will continue to assess prior year performance targets annually, based on a 5-year rolling average, to determine met or made significant progress toward meeting calendar year [year to be inserted] performance targets in [year to be inserted].

(g) The FHWA will determine that a State DOT has not met or made significant progress toward the achievement of performance targets if a State DOT does not report the required data in the HSIP annual report, in accordance with § 490.213(b).

(h) The FHWA will consider extenuating circumstances documented by the State DOT in the assessment of progress toward met or made significant progress of performance targets.

(1) The FHWA will classify the assessment of progress toward the achievement of the triennial performance target as ''progress not determined'' if the State DOT has provided an explanation of the extenuating circumstances beyond the control of the State DOT that prevented it from meeting or making significant progress toward the achievement of the triennial performance targets and the State DOT has quantified the impacts on the performance that resulted from the circumstances, which are:

(i) Natural or man-made disasters declared under the Robert T. Stafford Disaster Relief and Emergency Assistance Act that caused delay in data collection;

(ii) [Reserved]

(iii) New law or regulation directing State DOTs to change metric or measure calculation; or

(iv) Presidentially declared national emergency that impacts the collection or submittal of data.

(2) If the State DOT's explanation, described in paragraph (h)(1) of this section, is accepted by the FHWA, then the progress toward achieving the safety performance targets will be classified as ''progress not determined''.

■ 11. Revise § 290.213 to read as follows:

§ 490.213 Reporting of Performance Targets for the Highway Safety Improvement Program.

(a) The performance targets established by the State DOT shall be reported to the FHWA by [date to be inserted], and triennially thereafter, in accordance with 23 CFR part 924.

(b) The State DOT shall annually report on performance in the HSIP annual report, in accordance with 23 CFR part 924. The State DOT shall, at a minimum, include the most recent 6 consecutive years of State reported serious injury data and non-motorized serious injury data in each year's HSIP annual report.

(c) The MPOs shall triennially report their established performance targets to their respective State DOT, in a manner that is documented and mutually agreed upon by both parties.

(d) The MPOs shall report baseline safety performance, VMT estimate and methodology if a quantifiable rate performance target was established, and progress toward the achievement of their performance targets in the system performance report in the metropolitan transportation plan in accordance with 23 CFR part 450. Performance and progress shall be reported based on the following data sources:

(1) The most recent available Final FARS data for the fatality number. The FARS ARF may be used if Final FARS is not available;

(2) The most recent available Final FARS and MPO VMT estimate for the fatality rate. The FARS ARF may be used if Final FARS is not available;

(3) The most recent available Final FARS data for the non-motorized fatality number. The FARS ARF may be used if Final FARS is not available;

(4) State reported data for the serious injuries number;

(5) State reported data and MPO VMT estimate for the serious injuries rate; and

(6) State reported data for the non-motorized serious injuries number.

Subpart C—National Performance Management Measures for Assessing Pavement Condition

■ 12. Amend § 490.305 by revising paragraph (3) of the definition for ''Cracking Percent'' to read as follows:

§ 490.305 Definitions

* * * * *

Cracking Percent * * *

(3) For CRCP, the Cracking Percent is the percentage of pavement surface with longitudinal cracking or punchouts, spalling or other visible defects.

* * * * *

■ 13. Amend § 490.309 by revising paragraphs (a), (b)(1)(i)(B), (b)(1)(iv)(A), (b)(2)(i)(B), (b)(2)(ii)(B), (b)(2)(iii)(A), (b)(3)(v) through (vii), and the introductory text of paragraph (c) to read as follows:

§ 490.309 Data requirements.

(a) The performance measures identified in § 490.307 are to be computed using methods in § 490.313 from the four condition metrics and the three relevant data items contained within the HPMS, which are collected and reported following the HPMS Field Manual (incorporated by reference, see § 490.111). State DOTs shall report four condition metrics for each pavement section: IRI, rutting, faulting, and Cracking_Percent. State DOTs shall also report three relevant data items: Through_Lanes, Surface_Type, and Structure_Type. All pavement data collected after January 1, 2018, for Interstate highways and January 1, 2020, for non-Interstate National Highway System routes shall meet the requirements of this section.

(b) * * *

(1) * * *

(i) * * *

(B) In the rightmost travel lane or an adjacent lane for all data if the rightmost travel lane is not readily accessible due to construction, closure, excessive congestion, or other events impacting access;

* * * * *

(iv) * * *

(A) The PSR shall be determined as a value from 0.1 to 5.0 per the procedures prescribed in the HPMS Field Manual;

* * * * *

(2) * * *

(i) * * *

(B) In the rightmost travel lane or an adjacent lane for all data if the rightmost travel lane is not accessible due to construction, closure, excessive congestion, or other events impacting access;

* * * * *

(ii) * * *

(B) In the rightmost travel lane or an adjacent lane for all data if the rightmost travel lane is not accessible due to construction, closure, excessive congestion, or other events impacting access;

* * * * *

(iii) * * *

(A) The PSR shall be determined as a 0.1 to 5.0 value per the procedures prescribed in the HPMS Field Manual;

* * * * *

(3) * * *

(v) For CRCP the method to collect the data needed to determine the Cracking_Percent metric is described in the HPMS Field Manual and includes longitudinal cracking or punchouts, spalling, or other visible defects.

(vi) For asphalt pavements, the method to collect data needed to determine the rutting metric shall be the method(s) identified in the HPMS Field Manual.

(vii) For jointed concrete pavements, the method to collect data needed to determine the faulting metric shall be in accordance with AASHTO Standard R36–21 (incorporated by reference, see § 490.111).

(c) State DOTs shall collect data in accordance with the following relevant HPMS requirements to report Through_Lanes, Surface_Type, and Structure_Type.

* * * * *

■ 14. Amend § 490.311 by revising paragraphs (a), (b)(5)(ii), (c)(3)(i) through (iii), and (d) to read as follows:

§ 490.311 Calculation of pavement metrics.

(a) The condition metrics and relevant data items needed to calculate the pavement performance measures shall be calculated in accordance with the HPMS Field Manual (incorporated by reference, see § 490.111), except as noted below.

(b) * * *

(5) * * *

(ii) The PSR shall be determined as a 0.1 to 5.0 value per the procedures prescribed in the HPMS Field Manual.

* * * * *

(c) * * *

(3) * * *

(i) The StateID, RouteID, BeginPoint, and EndPoint shall be reported as specified in the HPMS Field Manual (incorporated by reference, see § 490.111) for each of the four condition metrics.

(ii) The BeginDate shall be reported as required in the HPMS Field Manual for each of the four condition metrics; and

(iii) The ValueDate shall be reported as the month and year of data collection for each of the four condition metrics.

* * * * *

(d) The three data items, Through_Lanes, Surface_Type, and Structure_Type shall be reported to the HPMS as directed in Chapter 4 of the HPMS Field Manual for the entire extent of the NHS.

(1) Section Lengths for the three data items are not required to meet the 0.1 mile nominal length but may be any logical length as defined in the HPMS Field Manual.

(2) The three data elements shall be reported to the HPMS for the Interstate System by April 15 of each year.

(3) The three data elements shall be reported to the HPMS for the non-Interstate NHS by June 15 of each year that data reporting is required.

■ 15. Amend § 490.313 by revising paragraph (b)(4) and (f)(2) through (5) to read as follows:

§ 490.313 Calculation of performance management measures.

* * * * *

(b) * * *

(4) The FHWA will determine that a reported section in HPMS has a missing, invalid or unresolved data on the dates specified in § 490.317(b) for Interstate System and § 490.109(d)(1)(ii) for non-Interstate NHS, if a reported section does not meet any one of the data requirements specified in §§ 490.309 and 490.311(c) or that reported section does not provide sufficient data to determine its Overall Condition specified in paragraphs (c) through (f) of this section:

(i) Total mainline lane-miles of missing, invalid, or unresolved sections for Interstate System on the date specified in § 490.317(b) shall be limited to no more than 5.0 percent of the total Interstate System lane miles less the sections excluded in § 490.313(f)(1).

(ii) Total mainline lane-miles of missing, invalid, or unresolved sections for non-Interstate NHS on the dates specified in § 490.109(d)(1)(ii) shall be limited to no more than 5.0 percent of the total non-Interstate NHS lane miles less the sections excluded in § 490.313(f)(1).

(iii) Where applicable, for each pavement section with missing condition metric(s) or relevant data item(s), State DOTs shall include in the HPMS submittal the specific code identified in the HPMS Field Manual (incorporated by reference, see § 490.111) noting the reason the data was not collected.

(iv) Calculation of overall pavement conditions in any State meeting the requirements of § 490.309(b) shall be based only on sections data extracted on the dates specified in § 490.317(b) for Interstate System and § 490.109(d)(1)(ii) for non-Interstate NHS.

(v) State DOTs not meeting the requirements of § 490.309(b) will be considered as not in compliance with § 420.105(b) requiring State DOTs to submit data to the HPMS and not in compliance with § 490.107 requiring reporting on performance targets.

(vi) Failure to meet the requirements of § 490.309(b) or paragraph (b)(4)(i) of this section on the date specified in § 490.317(b) for the Interstate System will be considered as not meeting the minimum requirements for pavement conditions on the Interstate System and that State DOT is subject to the penalties in § 490.315.

* * * * *

(f) * * *

(2) For § 490.307(a)(1) the measure for percentage of lane-miles of the Interstate System in Good condition shall be computed to the one tenth of a percent as follows:

$$100 \times \frac{\sum_{g=1}^{Good}\{\langle \text{EndPoint} - \text{BeginPoint}\rangle \times Through\_lanes\}_{section\ g}}{\sum_{t=1}^{Total}\{\langle \text{EndPoint} - \text{BeginPoint}\rangle \times Through\_lanes\}_{section\ t}}$$

Where:

Good = total number of mainline highway Interstate System sections where the overall condition is Good;

g = a section's overall condition is determined Good per paragraph (b) or (c) of this section;

t = an Interstate System section;

Total = total number of mainline highway Interstate System sections excluding bridges, unpaved surface and ''other'' surface types, and missing data sections, described in paragraphs (f)(1) and (b)(4)(i) of this section.

BeginPoint = Begin Milepost of each section g or t;

EndPoint = End Milepost of each section g or t; and

Through_lanes = the number of lanes designated for through-traffic represented by a section g or t.

(3) For § 490.307(a)(2) the measure for percentage of lane-miles of the Interstate System in Poor condition shall be computed to the one tenth of a percent as follows:

$$100 \times \frac{\sum_{g=1}^{Poor}\{\langle \text{EndPoint} - \text{BeginPoint}\rangle \times Through\_lanes\}_{section\ p}}{\sum_{t=1}^{Total}\{\langle \text{EndPoint} - \text{BeginPoint}\rangle \times Through\_lanes\}_{section\ t}}$$

Where:

Poor = total number of mainline highway Interstate System sections where the overall condition is Poor;

p = a section's overall condition is determined Poor per paragraph (b) or (c) of this section;

t = an Interstate System section;

Total = total number of mainline highway Interstate System sections excluding bridges, unpaved surface and ''other'' surface types, and missing data sections,

described in paragraphs (f)(1) and (b)(4)(i) of this section;
BeginPoint = Begin Milepost of each section p or t;
EndPoint = End Milepost of each section p or t; and
Through_lanes = the number of lanes designated for through-traffic represented by a section p or t.

(4) For § 490.307(a)(3) the measure for percentage of lane-miles of the non-Interstate NHS in Good condition in § 490.307(a)(3) shall be computed to the one tenth of a percent as follows:

$$100 \times \frac{\sum_{g=1}^{Good}\{\langle \text{EndPoint} - \text{BeginPoint}\rangle \times Through\_lanes\}_{segment\ g}}{\sum_{t=1}^{Total}\{\langle \text{EndPoint} - \text{BeginPoint}\rangle \times Through\_lanes\}_{segment\ t}}$$

Where:
Good = total number of mainline highway non-Interstate NHS sections where the overall condition is Good;
g = a section's overall condition is determined Good per paragraph (b), (c) or (d) of this section;
t = a non-Interstate NHS section;
Total = total number of mainline highway non-Interstate NHS sections excluding bridges, unpaved surface and ''other'' surface types, and missing data sections, described in paragraphs (f)(1) and (b)(4)(i) of this section;
BeginPoint = Begin Milepost of each section g or t;
EndPoint = End Milepost of each section g or t; and
Through_lanes = the number of lanes designated for through-traffic represented by a section g or t.

(5) For § 490.307(a)(4) the measure for percentage of lane-miles of the non-Interstate NHS in Poor condition in § 490.307(a)(4) shall be computed to the one tenth of a percent as follows:

$$100 \times \frac{\sum_{g=1}^{Poor}\{\langle \text{EndPoint} - \text{BeginPoint}\rangle \times Through\_lanes\}_{section\ p}}{\sum_{t=1}^{Total}\{\langle \text{EndPoint} - \text{BeginPoint}\rangle \times Through\_lanes\}_{section\ t}}$$

Where:
Poor = total number of mainline highway non-Interstate NHS sections where the overall condition is Poor;
p = a section's overall condition is determined Poor per paragraph (b), (c) or (d) of this section;
t = a non-Interstate NHS section;
Total = total number of mainline highway non-Interstate NHS sections excluding bridges, unpaved surface and ''other'' surface types, and missing data sections, described in paragraphs (f)(1) and (b)(4)(i) of this section;
BeginPoint = Begin Milepost of each section p or t;
EndPoint= End Milepost of each section p or t; and
Through_lanes = the number of lanes designated for through-traffic represented by a section p or t.

■ 16. Amend § 490.317 by adding paragraphs (c)(1) and (2) to read as follows:

§ 490.317 Penalties for not maintaining minimum Interstate System pavement condition.

* * * * *

(c) * * *

(1) FHWA shall use the determination from the previous year to carry out paragraph (a) of this section when FHWA determines a State DOT is not in compliance with § 490.315(a) or § 490.315(b) due to an extenuating circumstance listed in § 490.109(e)(5) related to the collection or submittal of data.

(2) State DOTs will provide a description of any applicable extenuating circumstances for FHWA's consideration by the date specified in § 490.317(b).

* * * * *

■ 17. Amend § 490.319 by revising paragraph (c)(1)(ii) to read as follows:

§ 490.319 Other requirements.

* * * * *

(c) * * *

(1) * * *

(ii) Certification process for persons performing data collection;

* * * * *

Subpart E—National Performance Management Measures To Assess Performance of the National Highway System

■ 18. In § 490.509 amend paragraph (d) by removing the text ''and/or'' and adding, in its place, the text ''or''.

Subpart G—National Performance Management Measures for Assessing the Congestion Mitigation and Air Quality Improvement Program—Traffic Congestion

■ 19. In § 490.709, amend paragraph (e)(1)(i) by removing the text ''and/or'' and adding, in its place, the text ''or''.

[FR Doc. 2024–00373 Filed 1–24–24; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 8360

[BLM_CO_FRN_MO4500172299]

Public Lands in the Colorado River Valley, Grand Junction and Kremmling Field Offices, and the Dominguez-Escalante National Conservation Area, CO

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed supplementary rule.

SUMMARY: The Bureau of Land Management (BLM) is proposing a supplementary rule to protect natural resources and public health and safety. The proposed supplementary rule would apply to public lands and BLM facilities managed by the Colorado River Valley, Grand Junction, and Kremmling Field Offices, and the Dominguez-Escalante National Conservation Area (NCA) in Colorado managed by the Grand Junction and Uncompahgre Field Offices.

DATES: Please submit comments by March 25, 2024. Comments received after this date may not be considered in the development of the final supplementary rule.

ADDRESSES: You may submit comments by the following methods: ePlanning *https://eplanning.blm.gov/eplanning-ui/project/90071/510,* mail or hand deliver to Proposed Supplementary Rule, Attention: Erin Jones, Upper Colorado

River District, 2815 H Road, Grand Junction, CO, 81506.

FOR FURTHER INFORMATION CONTACT: Erin Jones, Upper Colorado River District Associate District Manager (see address listed earlier), or by phone: (970) 244–3008; or email: *erjones@blm.gov.* Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures

Written comments on the proposed supplementary rule should be specific, confined to issues pertinent to the proposed supplementary rule, and explain the reason for any recommended change. Where possible, comments should reference the specific section or paragraph of the proposed supplementary rule that the comments are addressing. The BLM will consider comments received before the end of the comment period (see **DATES**), including those that are postmarked before the deadline and delivered to the address listed earlier (see **ADDRESSES**). Comments, including names, street addresses, and other contact information of respondents will be available for public review during regular business hours (8:00 a.m. to 4:30 p.m. Monday through Friday, except on Federal holidays) in the Colorado River Valley, Grand Junction, Kremmling, and Uncompahgre Field Offices. 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 in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

II. Background

The Colorado River Valley, Grand Junction, and Kremmling Field Offices, and Dominguez-Escalante NCA completed new resource management plans (RMPs) in recent years. Supplementary rules are necessary to implement the decisions in the RMPs, which would facilitate enforcement of these decisions and protect natural resources and public health and safety.

The field offices completed their RMP processes and issued Records of Decision (RODs) after inviting the public to comment during scoping and public-comment periods. The field offices review each public comment received during each step of the process and responded to all comments received during the public-comment periods (see the individual RMPs for responses to public comments). Some parts of the proposed rule have already been in effect under previous RMPs; for example, the 14-day camping limits and restrictions on mechanized travel. Other proposed rule restrictions are from the new RMPs published in 2015, such as the restrictions on rock climbing in the Colorado River Valley Field Office and on metal detectors and paintball guns in Dominguez-Escalante NCA.

III. Discussion of the Proposed Supplementary Rule

This proposed supplementary rule would apply to public lands and BLM facilities managed by the Colorado River Valley Field Office, Grand Junction Field Office, Kremmling Field Office, and Dominguez-Escalante NCA.

This proposed supplementary rule would address resource damage, public safety, wildland fire, and wildlife disruption concerns. The BLM consulted with the Shooting Sports Roundtable while preparing each RMP to coordinate on the shooting closures described in this proposed rule.

We expect that concerns raised over restrictions to recreational activities in this proposed supplementary rule will be similar to those that the BLM addressed when it developed the supporting RMPs. Issues raised during the development of the supporting RMPs included concerns over the size and location of areas available for mechanized travel, target shooting, and camping in each field office or NCA, and the suitability of the areas for those uses. BLM examined the issues and comments submitted during the development of each RMP and struck a balance between making areas available for these types of activities and imposing restrictions where necessary to protect natural resources and public health and safety.

The proposed supplementary rule conforms with management decisions contained in the following RMPs:

- Colorado River Valley RMP (2015) as amended by the Sutey Ranch and Haines Parcel Approved RMP Amendment (2019);
- Grand Junction RMP (2015);
- Kremmling RMP (2015); and
- Dominguez-Escalante NCA RMP (2017).

The authority for this supplementary rule is set forth at sections 303 and 310 of the Federal Land Policy and Management Act (FLPMA), 43 U.S.C. 1733 and 1740, as well as 43 CFR 8365.1–6, which authorizes BLM State Directors to establish a supplementary rule for the protection of persons, property, and public lands and resources.

IV. Procedural Matters

Regulatory Planning and Review (Executive Orders 12866 and 13563)

The proposed supplementary rule is not a significant regulatory action and is not subject to review by the Office of Management and Budget under Executive Order 12866 as amended by Executive Order 14094. The proposed supplementary rule would not have an effect of $200 million or more on the economy and would not adversely affect in a material way productivity; competition; jobs; the environment; public health or safety; or State, local, or Tribal governments or communities. The proposed supplementary rule would not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. The proposed supplementary rule would not materially alter the budgetary effects of entitlements, grants, user fees, or loan programs, or the rights or obligations of their recipients, nor does it raise novel legal or policy issues. This proposed supplementary rule would merely impose limitations on certain activities on certain public lands to protect natural resources and human health and safety.

Regulatory Flexibility Act

Congress enacted the Regulatory Flexibility Act of 1980 (RFA), as amended, 5 U.S.C. 601–612, to ensure that government regulations do not unnecessarily or disproportionately burden small entities. The RFA requires a regulatory flexibility analysis if a rule would have a significant economic impact, either detrimental or beneficial, on a substantial number of small entities. The proposed supplementary rule would have no effect on business entities of any size. The proposed supplementary rule would merely impose reasonable restrictions on certain activities on certain public lands to protect natural resources and the environment and human health and safety. Therefore, the BLM certifies under the RFA that this proposed supplementary rule would not have a significant economic impact on a substantial number of small entities.

Congressional Review Act

This proposed supplementary rule is not a ''major rule'' as defined at 5 U.S.C. 804(2). This proposed supplementary rule would merely impose reasonable restrictions on certain recreational activities on certain public lands to protect natural resources, the environment and human health and safety. This proposed supplementary rule would not:

(1) Have an annual effect on the economy of $100 million or more.

(2) Cause a major increase in costs or prices for consumers; individual industries; Federal, State, or local agencies; or geographic regions; or

(3) Have 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.

Unfunded Mandates Reform Act

The proposed supplementary rule would not impose an unfunded mandate on State, local, or Tribal governments or the private sector of more than $100 million per year; nor would it have a significant or unique effect on State, local, or Tribal governments or the private sector. The proposed supplementary rule would merely impose reasonable restrictions on certain recreational activities on specific public lands to protect natural resources, the environment, and human health and safety. Therefore, the BLM is not required to prepare a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*).

Governmental Actions and Interference With Constitutionally Protected Property Rights—Takings (Executive Order 12630)

The proposed supplementary rule does not constitute a government action capable of interfering with constitutionally protected property rights. The proposed supplementary rule would not address property rights in any form and would not cause the impairment of constitutionally protected property rights. Therefore, the BLM has determined that this proposed supplementary rule would not cause a ''taking'' of private property or require further discussion of takings implications under this Executive order.

Federalism (Executive Order 13132)

The proposed supplementary rule would not have a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, the BLM has determined that this proposed supplementary rule does not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

Civil Justice Reform (Executive Order 12988)

Under Executive Order 12988, the BLM has determined that this proposed supplementary rule would not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of Executive Order 12988.

Consultation and Coordination With Indian Tribal Governments (Executive Order 13175 and Departmental Policy)

In accordance with Executive Order 13175, the BLM has found that this proposed supplementary rule does not include policies that have Tribal implications and would have no bearing on trust lands or on lands for which title is held in fee status by Indian Tribes or U.S. Government-owned lands managed by the Bureau of Indian Affairs.

Paperwork Reduction Act

This proposed supplementary rule does not contain information collection requirements that the Office of Management and Budget must approve under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3521.

National Environmental Policy Act

This proposed supplementary rule would implement key decisions in the following RMPs: Colorado River Valley Field Office, Grand Junction Field Office, Kremmling Field Office, and Dominguez-Escalante NCA. The BLM's National Environmental Policy Act (NEPA) reviews for these management plans analyzed the effects of implementing the RMP decisions through a supplementary rule. The BLM prepared a Determination of NEPA Adequacy to confirm that the prior analyses and public comment processes were sufficient to inform the decision to establish this supplementary rule. Therefore, additional NEPA analysis is not required. Copies of the Environmental Impact Statements and RODs for each RMP, and the Determination of NEPA Adequacy for this proposed supplementary rulemaking, are on file at the BLM offices at the addresses specified in the **ADDRESSES** section and electronic copies are available online at *https://eplanning.blm.gov/eplanning-ui/project/90071/510.*

Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution or Use (Executive Order 13211)

This proposed supplementary rule does not comprise a significant energy action. This proposed supplementary rule would not have an adverse effect on energy supply, production, or consumption and has no connection with energy policy.

Information Quality Act

In developing this proposed supplementary rule, the BLM did not conduct or use a study, experiment, or survey requiring peer review under the Information Quality Act (Section 515 of Pub. L. 106–554).

Facilitation of Cooperative Conservation (Executive Order 13352)

In accordance with Executive Order 13352, the BLM has determined that the proposed supplementary rule would not impede facilitating cooperative conservation; would take appropriate account of and consider the interests of persons with ownership or other legally recognized interests in land or other natural resources; would properly accommodate local participation in the Federal decision-making process; and would provide that the associated programs, projects, and activities are consistent with protecting public health and safety.

V. Proposed Rule

Author

The principal author of this proposed supplementary rule is Erin Jones, Associate District Manager BLM Upper Colorado River District Office.

For the reasons stated in the preamble, and under the authority of 43 U.S.C. 1733(a) and 1740, and 43 CFR 8365.1–6, the State Director proposes a supplementary rule for public lands and facilities in the Colorado River Valley Field Office, Grand Junction Field Office, Kremmling Field Office, and Dominguez-Escalante NCA.

Proposed Supplementary Rule for the Colorado River Valley Field Office, Grand Junction Field Office, Kremmling Field Office, and Dominguez-Escalante National Conservation Area

Definitions and Acronyms

(1) As used in this Supplementary Rule, the term:

Approved Portable Toilet means any non-biodegradable, durable container designated to receive and hold human waste, in any container position without leaking; and equipped with a dumping

system that allows the container to be emptied into a standard receiving or dump system designed for that purpose (such as a SCAT machine or recreational vehicle dump station), in a sanitary manner, without spills, seepage, or human exposure to human waste; or any approved biodegradable landfill-approved bag system designed for landfill or garbage can disposal (such as a ''WAG'' bag, a human waste disposal bag).

Camp means erecting a tent or shelter of natural or synthetic material; preparing a sleeping bag or other bedding material; parking a motor vehicle, motor home, or trailer; or mooring a vessel for the apparent purpose of overnight occupancy.

Campfire means a controlled fire occurring out of doors, used for cooking, branding, personal warmth, lighting, ceremonial, or aesthetic purposes.

Designated campsite means a BLM-designated campsite, marked with a visible number or identification mounted on a post or placard. Designated sites may be undeveloped or developed with basic amenities.

Developed recreation site. See definition at 43 CFR 8360.0–5(c).

Developed toilet facility means a vault-type, pit, or portable toilet provided by the BLM or its partners.

Dispersed campsite means an undesignated campsite not located in a campground that is traditionally used for camping.

Firearm means a weapon, by whatever name known, that is designed to expel a projectile by the action of powder; and be readily capable of use as a weapon.

Fire pan means a durable metal fire pan at least 12 inches in diameter with at least a 1.5-inch lip around its outer edge and sufficient to contain fire and fire remains containing fire, charcoal, and ash, while preventing ashes or burning material from spilling onto the ground; and that is elevated above the ground.

Fire ring means a ring designed to contain a fire on the ground and can be natural or manmade, constructed of non-flammable materials, and is not considered a designated trash receptacle.

Intent to camp means any off-loading, or preparing for use of common overnight equipment, such as tents, sleeping bags or bedding, food, cooking or dining equipment, or lighting equipment; or preparing common camping equipment for use in or on any boat.

Mechanized travel means moving by means of a mechanical device, such as a bicycle or game retrieval cart; not powered by a motor.

Over-snow vehicle means a motor vehicle that is designed for use over snow and that runs on a track or tracks and/or a ski or skis, while in use over snow.

Public lands means any lands and interests in lands owned by the United States and administered by the Secretary of the Interior through the Bureau of Land Management without regard to how the United States acquired ownership, except:

1. lands located on the Outer Continental Shelf; and

2. lands held for the benefit of Indians, Aleuts, and Eskimos.

Recreational Target Shooting means target shooting that uses any devices to propel a projectile, including but not limited to firearms, bow and arrow, sling shots, paint ball guns, and air guns. Target shooting is not considered hunting. Hunting with a valid hunting license is allowed in areas that are closed to target shooting.

Resource damage means impacts to natural resources or public lands due to injury, destruction, or loss of natural resources, resulting in the necessary restoration or replacement of such natural resources.

Sport rock climbing means a style of climbing that relies on fixed protection against falls, usually bolts and/or top anchors.

Target means an object constructed of wood, paper, or biodegradable materials, or commercially manufactured and designed for target shooting, and that may be supported by a target frame (*e.g.,* metal or PVC frame).

Target backstop means an unobstructed earthen mound or bank at least 8 feet in height which must stop the progress of and contain all projectiles, fragments, and ricochets in a safe manner.

Vehicle means any motorized transportation conveyance designed and licensed for use on roadways, such an automobile, bus, motorcycle, or truck, and any motorized conveyance originally equipped with safety belts.

WAG Bag means any approved, commercially engineered, biodegradable, landfill-approved bag system containing enzymes, polymers, or waste-alleviating gelling compounds that is designed for landfill or garbage can disposal (such as a ''Waste Alleviation and Gelling'' bag, a human waste disposal bag). The double bag system must be made of puncture resistant material, must be spill proof, hygienic, and approved for disposal in any garbage can.

(2) As used in this proposed Supplementary Rule, the following additional acronyms apply:

ACEC means Area of Critical Environmental Concern.
ERMA means Extensive Recreation Management Area.
OHV means off-highway vehicle.
NCA means National Conservation Area.
RMA means Recreation Management Area.
RMZ means Recreation Management Zone.
SRMA means Special Recreation Management Area.
USFS means United States Forest Service.
WSA means Wilderness Study Area.

Prohibited Acts on Public Lands Managed by the Colorado River Valley Field Office, Grand Junction Field Office, and Kremmling Field Office and in Dominguez-Escalante NCA

1. You must not abandon animal carcasses, or any part of an animal carcass, within 100 feet of the outer perimeter of any campsite (designated or dispersed) or 100 feet from the edge of any roadway or any water source.

2. You must not operate mechanical transport (*e.g.,* bicycles, mountain bikes) other than on designated roads and trails allowing such use or in designated-open areas and within designated-open timeframes.

3. You must not have a campfire outside of a designated campsite in the following areas:

TABLE 1—NO CAMPFIRES OUTSIDE OF DESIGNATED CAMPSITES

[Accompanying maps in Appendix A]

Grand Junction Field Office	Dominguez-Escalante NCA
▪ Pyramid Rock Area of Critical Environmental Concern (ACEC) ▪ Unaweep Seep ACEC ▪ Dolores River Riparian ACEC ▪ Bangs SRMA Recreation Management Zone (RMZ) 1 ▪ Bangs SRMA RMZ 3	▪ In the Gunnison River SRMA Corridor and other riparian and wetland areas

TABLE 1—NO CAMPFIRES OUTSIDE OF DESIGNATED CAMPSITES—Continued

[Accompanying maps in Appendix A]

Grand Junction Field Office	Dominguez-Escalante NCA
▪ Bangs SRMA RMZ 2 in the portion of the RMZ north of the drainage at the bottom of Rough Canyon ▪ Palisade Rim SRMA ▪ Grand Valley Shooting Ranges ERMA ▪ Gunnison River Bluffs ERMA ▪ Horse Mountain ERMA RMZ 1 ▪ Horse Mountain ERMA RMZ 2 ▪ Horse Mountain ERMA RMZ 3 ▪ 18 Road Open OHV Area within the North Desert ERMA ▪ Within 100 meters (or approximately 328 feet) of standing historic structures to include, but not limited to, Calamity Camp and New Verde Mine, unless administratively permitted	

4. You must not camp outside of designated campsites and developed campgrounds in the following areas:

TABLE 2—CAMPING RESTRICTED TO DESIGNATED CAMPSITES AND DEVELOPED CAMPGROUNDS ONLY

[Accompanying maps in Appendix A]

Colorado River Valley Field Office	Grand Junction Field Office	Kremmling Field Office	Dominguez-Escalante NCA
▪ Within 0.25-mile of the Fisher Creek Cemetery Road ▪ Within 300 feet from the centerline of North Hardscrabble Access Road (Spring Creek) ▪ Glenwood Canyon in the Horseshoe Canyon (Bend) area ▪ Within 0.25-mile of Prince Creek Road (Pitkin County Road 7), including the Haines Parcel ▪ Eagle River ERMA ▪ Garfield Creek Colorado River Access Site and on surrounding BLM lands ▪ Silt Mesa ERMA (BLM lands south of the crest of the Grand Hogback mountain) ▪ Thompson Creek area within 0.25-mile of USFS Road 305 ▪ Red Hill SRMA (north of Carbondale, Colorado) ▪ East Glenwood Canyon Trailhead area north of the Colorado River ▪ South Canyon Recreation Site and surrounding area ▪ Ute Trailhead (near Dotsero) west and north of the Colorado River ▪ Sutey Ranch	▪ Pyramid Rock ACEC ▪ Unaweep Seep ACEC ▪ Dolores River Riparian ACEC ▪ Bangs SRMA RMZ 1 ▪ Bangs SRMA RMZ 2 in the portion of the RMZ north of the drainage at the bottom of Rough Canyon ▪ Bangs SRMA RMZ 3 ▪ Dolores River SRMA ▪ North Fruita Desert SRMA ▪ Palisade Rim SRMA ▪ Grand Valley Shooting Ranges ERMA ▪ Gunnison River Bluffs ERMA ▪ Horse Mountain ERMA (all RMZs) ▪ 18 Road Open OHV Area within the North Desert ERMA ▪ Miracle Rock Recreation Site ▪ Mud Springs Campground ▪ Within 100 meters (or approximately 328 feet) of standing historic structures to include, but not limited to, Calamity Camp and New Verde Mine, unless administratively permitted	▪ Within 0.25-mile of the Colorado River of the Upper Colorado River SRMA ▪ The open OHV area south and east of Wolford Mountain ▪ Wolford SRMA Recreation Management Zone 3—Lands west of Grand County Road 224, south of Wolford Mountain, west of Wolford Reservoir, and east of U.S. Hwy 40 ▪ Confluence Recreation Site, and adjacent BLM-managed public lands ▪ Reeder Creek Fishing Access, and adjacent BLM-managed public lands ▪ Sunset Fishing Access, and adjacent BLM managed public lands ▪ Windy Gap Fishing Access Parking Area ▪ Fraser River Fishing Access Parking Area ▪ Sidewinder Jeep Trail Parking Area ▪ Kremmling Cretaceous Ammonite Site ▪ Barger Gulch Paleo-Indian Site ▪ Yarmony Pit House Site ▪ Upper CO River SRMA Yarmony Jeep Trail Recreation Management Zone 4 ▪ Independence Mountain Tipi Site ▪ Junction Butte Wetlands ▪ Upper CO River SRMA Gore Canyon Ranch Recreation Management Zone 5 ▪ Hurd Peak and Tab Rock staging areas ▪ Headwaters RMA Jacques staging area, and adjacent BLM-managed public lands ▪ North Sand Hills Instant Study Area	▪ Cactus Park SRMA ▪ Gunnison River SRMA ▪ Escalante Canyon SRMA, including the Escalante Potholes Recreation Site ▪ RMZ 2 Sawmill Mesa/Wagon Park ERMA

5. Equestrian travel is prohibited on/in the following trails/areas:

TABLE 3—AREAS CLOSED TO EQUESTRIAN TRAVEL
[Accompanying maps in Appendix A]

Colorado River Valley Field Office	Grand Junction Field Office	Kremmling Field Office
▪ Storm King Trail ▪ Sutey Ranch from December 1 through April 15	▪ Pyramid Rock ACEC ▪ Mica Mine Trail ▪ Rough Canyon Trail ▪ Free Lunch Trail ▪ Pucker Up Trail	▪ Kremmling Cretaceous Ammonite ACEC/Resource Natural Area (RNA) ▪ Fraser River Canyon Access Trail ▪ Gore Canyon Trail ▪ Argentine Trail

6. Recreational target shooting is prohibited on the following BLM-managed lands to protect visitor safety (discharge of firearms, other weapons, and fireworks on developed recreation sites and areas is prohibited under 43 CFR 8365.2–5(a)).

TABLE 4—AREAS WHERE RECREATIONAL TARGET SHOOTING IS PROHIBITED
[Accompanying maps in Appendix A]

Colorado River Valley Field Office	Grand Junction Field Office	Kremmling Field Office	Dominguez-Escalante NCA
▪ Within 300 feet from the centerline of North Hardscrabble Access Road (Spring Creek) ▪ Silt Mesa ERMA (BLM lands south of the crest of the Grand Hogback Mountain)	▪ Bangs SRMA RMZs 1, 2, and 3 ▪ Coal Canyon and Main Canyon areas ▪ Grand Valley OHV SRMA ▪ Gunnison River Bluffs ERMA ▪ Horse Mountain ERMA, including RMZ 1 west of Sink Creek, RMZ 2, and areas adjacent to residences at the end of C Road ▪ Mt. Garfield ACEC ▪ North Desert ERMA18 Road Open OHV area ▪ North Fruita Desert SRMA ▪ Palisade Rim SRMA ▪ Pyramid Rock ACEC	▪ Upper Colorado River SRMA ▪ Barger Gulch fishing access ▪ Highway 9 fishing access ▪ Reeder Creek fishing area ▪ Reeder Creek parking/access Sunset fishing access ▪ Upper Colorado River corridor and Scenic Byway ▪ Hebron Watchable Wildlife Area ▪ Wolford SRMA, south portion ▪ Strawberry SRMA, Strawberry/Hurd Peak Area ▪ North Sand Hills SRMA and Cooperative Management Area ▪ Headwaters ERMA ▪ Kinney Creek trailhead ▪ Jacques parking area	▪ Dominguez Canyon Wilderness Zone 1 ▪ Gunnison River SRMA ▪ Escalante Canyon SRMA ▪ East Creek ERMA

7. Overnight use is prohibited in the following areas (day-use allowed only):

TABLE 5—DAY USE ONLY—OVERNIGHT USE PROHIBITED
[Accompanying maps in Appendix A]

Colorado River Valley Field Office (use prohibited from 10:00 p.m.–6:00 a.m.)	Grand Junction Field Office (use prohibited from sunset–sunrise)	Kremmling Field Office (use prohibited from sunset–sunrise)	Dominguez-Escalante NCA (use prohibited from sunset–sunrise)
▪ BLM recreation sites where camping facilities are not provided ▪ Deep Creek Canyon—within 0.25-miles of Deep Creek accessible from the Coffee Pot Road ▪ Sutey Ranch	▪ 34 and C Roads (areas adjacent to the Horse Mountain ERMA) ▪ Grand Valley Shooting Ranges ERMA (with an exception for authorized training exercises) ▪ Horse Mountain ERMA (RMZ 1 (portion of the RMZ west of Sink Creek), RMZ 2 and RMZ 3) ▪ Redlands Dam area along the Gunnison River ▪ The Potholes on the Little Dolores River off of 9.8 Road in the Glade Park area	▪ BLM recreation sites where camping facilities are not provided	▪ Rambo/Little Dominguez Canyon Heritage Area ▪ The Wilderness portion of Big Dominguez Heritage Area ▪ The Wilderness portion of Leonard's Basin Heritage Area ▪ Wilderness Zone 1 ▪ Wilderness portion of the Leonards Basin Heritage Area ▪ East Creek ERMA

8. The following areas are closed to mechanized travel during the specified timeframes to protect wintering big game species.

TABLE 6—AREAS CLOSED TO MECHANIZED TRAVEL DURING WINTER/SPRING
[Accompanying maps in Appendix A]

Colorado River Valley Field Office (December 1 through April 15)	Grand Junction Field Office (December 1 through May 1)	Kremmling Field Office (December 15 through April 15)	Dominguez-Escalante NCA (December 1 through April 30)
▪ Basalt Mountain (south portion—1,300 acres) ▪ Boiler-East Elk Creek-New Castle (4,400 acres)	▪ Little Book Cliffs Wild Horse Range ▪ Beehive Wildlife Emphasis Area (WEA) ▪ Blue Mesa WEA	▪ Strawberry SRMA Wolford Mountain Travel Management Area and SRMA ▪ North Sand Hills SRMA	▪ Gibbler Gulch ▪ Wagon Park ▪ Sowbelly ▪ Upper Sawmill Mesa

TABLE 6—AREAS CLOSED TO MECHANIZED TRAVEL DURING WINTER/SPRING—Continued
[Accompanying maps in Appendix A]

Colorado River Valley Field Office (December 1 through April 15)	Grand Junction Field Office (December 1 through May 1)	Kremmling Field Office (December 15 through April 15)	Dominguez-Escalante NCA (December 1 through April 30)
▪ Cottonwood Creek (13,800 acres) ▪ Dry Rifle Creek (2,200 acres) ▪ East Eagle except for the following bike trails: (a) Boneyard Trail; (b) Redneck Ridge Trail; and (c) Western portion of Pool and Ice Trail (6,000 acres) ▪ Fisher Creek-Cattle Creek (2,800 acres) ▪ Flatiron Mesa (800 acres) ▪ Hardscrabble (24,600 acres) ▪ Light Hill (3,800 acres) ▪ Red Canyon-Hells Pocket-Bocco Mountain-East Castle Peak (14,500 acres) ▪ Red Hill SRMA (north side) (2,600 acres) ▪ The Crown, except for the bike trail system paralleling Prince Creek Road (9,200 acres) ▪ Thompson Creek/Holgate Mesa (9,500 acres) ▪ West Rifle Creek (1,100 acres) ▪ Williams Hill (1,500 acres) ▪ Winter Ridge, Black Mountain, Pisgah Mountain,Windy Point, Boore Flat, and Domantle (33,500 acres)	▪ East Salt Creek WEA ▪ Rapid Creek WEA ▪ Chalk Mountain ▪ Coal Canyon ▪ Demaree Canyon outside of the Wilderness Study Area (WSA) ▪ Garvey Canyon ▪ Grand Mesa Slopes ▪ Howard Canyon Flats ▪ Indian Point ▪ Post Canyon ▪ Lapham Canyon ▪ Coal Gulch ▪ Fruita Slopes ▪ Rapid Creek	▪ Dry Mesa	

Restrictions on Activities on Public Lands Managed by the Colorado River Valley Field Office

1. You must not engage in target shooting without a target backstop.

2. You must not build or maintain a fire more than 3 feet in diameter, unless otherwise authorized.

3. Unless the campsite is marked and designated by the BLM, you must not camp within 100 feet from any spring, pond, lake, or perennial stream.

4. You must keep dogs and other domesticated animals on a leash or other similar constraint (*e.g.,* voice control, shock collar) where indicated by a BLM sign, brochure, or map. This regulation does not apply to livestock working or hunting dogs engaged in those activities. You must remove and properly dispose of all pet waste from developed recreation sites and areas.

5. You must not cut live or dead standing trees unless otherwise permitted. You may collect only dead and down wood for campfires.

6. You must not camp or otherwise occupy any location or site for more than 7 consecutive days from April 1 to August 31, unless otherwise authorized in writing by the BLM.

7. You must not camp or otherwise occupy any location or site for more than 14 consecutive days between September 1 and March 31, unless otherwise authorized in writing by the BLM.

8. In areas with limited travel designations, mechanized travel is limited to designated routes.

9. In areas with limited travel designations, mechanized and motorized travel up to 300 feet from designated motorized/mechanized routes is permitted for direct access to dispersed campsites provided that: (a) no resource damage occurs; (b) no new routes beyond the campsite are created; and (c) such access is not otherwise prohibited (such as in WSAs).

10. In areas open for over-snow travel, travel off designated routes is prohibited unless a minimum of 12 inches of snow cover exists and no resource damage will occur from over-snow travel.

11. In the Thompson Creek ERMA,

(a) You may reestablish old rock-climbing routes and permanent fixed climbing anchors (bolts and pitons) only at the BLM-recognized sport rock climbing area (rock fins, narrow walls of hard sedimentary rock).

(b) You must not develop additional bolted routes outside of the BLM-recognized sport rock climbing area (rock fins).

(c) You may use mechanical devices (*e.g.,* power drills) only at the BLM-recognized sport rock climbing area (rock fins).

(d) You must not exceed a climbing group size (per route) of four people per day, including staff, at the BLM-recognized sport rock climbing area (rock fins).

12. In the Upper Colorado SRMA,

(a) You must not exceed a group size of 25 people per group (including guides) for commercial and private river groups.

(b) You must not camp or display an intent to camp during an overnight river trip without an approved fire pan.

(c) You must not camp, or display an intent to camp overnight, without an approved portable toilet.

(d) You must carry and use an approved portable toilet on an overnight trip. The system must be adequate for the size of the group and length of the trip. All solid human bodily waste, including WAG bags, must be contained in a leak-proof, hard-sided container with a screw-on or ratchet-locking lid.

(e) You must not fail to set up an approved portable toilet, ready for use, as soon as practical upon arriving at the campsite to be occupied on an overnight trip if a toilet facility (porta-potty or vault toilet) is not provided by the BLM.

(f) You must not empty an approved portable toilet into a developed toilet facility, or any other facility not developed and identified especially for that purpose. Leaving solid human waste on public lands or dumping it into vault toilets or trash receptacles at BLM-managed facilities is prohibited unless using a WAG-bag system that is specifically designed for disposal in trash receptacles.

(g) You must remove and properly dispose of all pet waste from developed recreation sites/areas.

13. On the Sutey Ranch,

(a) You must not enter from December 1 through April 15 when closure orders are in effect to protect wintering big game, except when allowed under other applicable laws.

(b) You must not harvest timber, firewood, or special forest products.

(c) You must not travel by mechanized vehicle from October 1 through May 31.

Restrictions on Activities on Public Lands Managed by the Grand Junction Field Office

1. You must use an approved portable toilet at designated undeveloped sites in the following areas: North Fruita Desert SRMA, Bangs SRMA RMZ 2, and Dolores River SRMA.

2. You must not enter the Pyramid Rock ACEC.

3. You must not travel via any mode of transport (including foot and horse travel) off designated routes in the following areas: Bangs SRMA RMZ 1 north of Little Park Road and Andy's Loop, and Gunnison River Bluffs ERMA.

4. You must not collect dead and down wood in the following areas, except for campfire use: Unaweep lands with wilderness characteristics area; riparian areas; Pyramid Rock ACEC; Unaweep Seep ACEC; Bangs SRMA RMZ 2.

5. You must collect only dead and down wood for campfires in the North Desert ERMA.

6. You must not harvest timber or cut firewood in the following areas: Bangs SRMA RMZ 1; RMZ 3; RMZ 4; North Fruita Desert SRMA; Palisade Rim SRMA.

7. You must not exceed the following group-size limits, including guides and dogs, without written authorization from the BLM: 12 in WSAs and areas managed to protect wilderness characteristics; 25 for more than 2 hours in the remaining lands managed by the Grand Junction Field Office. For groups that exceed these limits, you must contact the BLM prior to the outing so that the BLM can determine whether an organized group Special Recreation Permit is required.

8. You must have campfires within agency-provided fire rings or approved fire pans at designated undeveloped sites in the following areas: Dolores River SRMA, Bangs SRMA RMZ 2, North Fruita Desert SRMA.

9. You must not install permanent climbing anchors that do not match the color of the rock surface (fixtures, hardware, and webbing, etc.).

Restrictions on Activities on Public Lands Managed by the Kremmling Field Office

1. You must not empty or dispose of sewage and/or gray water held in a containment tank on public lands or at any facility not specifically identified for such disposal.

2. You must not build or maintain a fire more than 3 feet in diameter, unless otherwise authorized in writing by the BLM.

3. You must not leave, deposit, or scatter human waste, toilet paper, or items used as toilet paper, when an approved portable toilet or developed toilet facility is available. Where a developed toilet facility is not provided, and an approved portable toilet is not required, all human waste and toilet paper, or material used as toilet paper, must be buried at least 6 inches below the surface of the ground in natural soil, and at least 100 feet from the edge of a river or any other water source.

4. You must not dig in or level the ground at any campsite.

5. In areas open to dispersed camping, you must not camp outside of designated sites within 50 feet of any spring, pond, lake, or perennial stream.

6. You must keep dogs and other domesticated animals on a leash or other similar constraint (*e.g.,* voice control, shock collar). This regulation does not apply to livestock working or hunting dogs engaged in those activities. You must remove and properly dispose of all pet waste from developed recreation sites/areas.

7. Fuel wood collection is prohibited in developed recreation areas. Fuel wood for recreational campfires outside of developed recreation areas is limited to dead and downed vegetation, unless otherwise prohibited.

8. You must not camp or otherwise occupy any location or site for more than 7 consecutive days from April 1 to August 31, unless otherwise authorized in writing by the BLM.

9. You must not camp or otherwise occupy any location or site for more than 14 consecutive days between September 1 and March 31, unless otherwise authorized in writing by the BLM.

10. In areas open for over-snow travel in the field office, travel off designated routes is prohibited unless a minimum of 12 inches of snow cover exists and no resource damage will occur from over-snow travel.

11. In areas with limited travel designations, mechanized travel is limited to designated routes.

12. In areas with limited travel designations, motorized and mechanized travel (bicycles) are allowed up to 300 feet from designated motorized or mechanized transport routes for direct access to dispersed campsites or parking provided that: (a) no resource damage occurs; (b) no new routes are created; and (c) such access is not otherwise prohibited.

13. In the Wolford Mountain Travel Management Area, motorized and mechanized travel (bicycles) is allowed up to 50 feet from designated motorized or mechanized routes for direct access to dispersed campsites or parking provided that: (a) no resource damage occurs; (b) no new routes are created; and (c) such access is not otherwise prohibited.

14. In the North Sand Hills SRMA,

(a) You must not park a vehicle in such a manner as to impede or obstruct the normal flow of traffic or create a hazardous condition.

(b) You must obey posted parking closures or restrictions.

(c) You must not operate a motor vehicle or OHV in excess of the posted speed limit, or in excess of 15 mph around camping areas, 50 feet from any campsite, parked vehicle(s), person(s), or animal(s).

(d) You must not possess or use any glass container on the open sand dunes or trails. Persons may possess glass containers within the confines of their camping area.

(e) You must not cut, collect, or use live, dead, or down wood.

15. In the Wolford Mountain SRMA,

(a) You must possess and use a hazardous materials spill kit if necessary during travel on the Sidewinder Extreme 4x4 trail.

(b) Travel is allowed on the Sidewinder Extreme 4x4 trail only when the top 1 inch of soil is dry and there is no rutting.

16. In the Upper Colorado River SRMA,

(a) You must not camp, or display intent to camp overnight, without an approved portable toilet.

(b) You must carry and use an approved portable toilet when on an overnight trip. The system must be adequate for the size of the group and length of the trip. The toilet system must be a reusable, washable, leak-proof toilet system that allows for the carry-out and disposal of solid human body waste in a responsible and lawful manner and must be accessible during the trip.

(c) All solid human waste, including WAG bags, must be contained in a leak-proof, animal-proof, hard-sided container with a screw-on or ratchet-locking lid.

(d) You must set up an approved portable toilet, ready for use, as soon as practical upon arriving at the campsite to be occupied on an overnight trip. You must not empty an approved portable toilet into a developed toilet facility, or any other facility not developed and identified especially for that purpose. Leaving solid human waste on public lands or dumping it into vault toilets or trash receptacles at BLM-managed facilities is prohibited.

(e) You must not camp or display intent to camp during an overnight river trip without an approved fire pan.

(f) You must not build, ignite, maintain, or use a campfire not contained in an approved fire pan.

(g) You must not leave fresh fire ash produced from a campfire in a fire pan or in a constructed, permanently installed metal fire pit provided by the BLM outside of the Pumphouse, Radium, and State Bridge Recreation Sites. Fire blankets under fire pans to facilitate total ash removal are recommended but are not required.

(h) You must remove and properly dispose of all pet waste from developed recreation sites/areas.

(i) You must not launch or take out a vessel in areas signed as prohibiting those activities.

(j) You must not cut, collect, or use live, dead, or down wood except driftwood.

Restrictions on Activities on Public Lands in the Dominguez-Escalante NCA

1. You must not install permanent climbing anchors in outstanding geologic features identified on a BLM sign or map.

2. You must not place or maintain permanent climbing anchors inside the Dominguez Canyon Wilderness Area without a permit from the BLM.

3. You must not install permanent climbing anchors that do not match the color of the rock surface (fixtures, hardware, and webbing, etc.).

4. You must not collect or harvest firewood or native species in riparian and wetland areas, except for driftwood.

5. You must not possess domestic goats.

6. You must keep all domestic dogs on leashes, except those actively working on a livestock operation in Wilderness Zone 1 and in the Escalante Triangle RMZ in the Sawmill Mesa ERMA (after the loop trail system is constructed).

7. You must not exceed group-size limit of 25 people in Wilderness Zone 1.

8. You must not exceed a group-size limit of 12 people in Wilderness Zones 2 and 3.

9. You must pack out all solid human waste in Wilderness Zone 2.

10. You must pack out solid human waste or bury solid human waste in a cathole more than 100 meters (approximately 383 feet) from natural water sources (rivers, creeks, springs, and seeps) in Wilderness Zone 3.

11. You must not place recreational geocaches without BLM authorization prior to placement.

12. You must not use a metal detector.

13. You must not use a paintball gun.

14. You must not use glass containers in the Potholes Recreation Site (Escalante Canyon) and Gunnison River SRMA.

15. Consistent with Public Law 111–11, you must not remove minerals from the NCA.

16. You must pack out solid human waste and fire ash. You must use portable toilet systems and fire pans for all overnight camping in undeveloped camp sites in the following RMAs: Gunnison River, Cactus Park, Escalante Canyon.

17. You must not rock climb (*e.g.,* bouldering, scrambling, trad climbing or sport climbing) in the East Creek RMA or Escalante Canyon RMA in areas or on routes marked as closed by BLM.

18. You must not ride a horse, donkey, mule, or burro in Wilderness Zone 1 except on existing routes identified on a BLM sign or map.

19. In the Gunnison River RMA,

(a) Motorized boat use is prohibited at BLM boat ramps and at campsites from May 1 through Labor Day Weekend.

(b) You must not have your dog off leash at boat ramps and the mouth of Dominguez Canyon.

(c) Exceeding a group size of 25 on the river (including guides and dogs) is prohibited.

(d) You must not camp outside of designated campsites.

(e) Non-boating overnight camping is prohibited at the mouth of Dominguez Canyon from May 1 through Labor Day Weekend.

(f) You must not camp more than 7 consecutive nights, unless otherwise authorized in writing by the BLM.

20. In the Ninemile Hill Recreation Management Area (RMA),

(a) You must not camp outside of designated campsites. Dispersed camping is allowed outside of designated campsites, so long as such camping takes place at least a ¼ mile (approximately 1,320 feet) away from designated motorized routes.

(b) You must not camp for more than 7 consecutive days, unless otherwise authorized in writing by the BLM.

21. In the Cactus Park RMA,

(a) You must not camp outside of designated campsites.

(b) You must not camp for more than 7 consecutive days from April 1 through Labor Day Weekend unless otherwise authorized by the BLM.

22. In the Hunting Ground RMA

(a) You must not camp for more than 7 consecutive days, unless otherwise authorized in writing by the BLM.

Exemptions

The following persons are exempt from this proposed supplementary rule: any Federal, State, local, and/or military employees acting within the scope of their official duties; members of any organized rescue or fire fighting force performing an official duty; and persons who are expressly authorized or approved by the BLM.

Enforcement

Any person who violates any part of this supplementary rule may be tried before a United States Magistrate and fined in accordance with 18 U.S.C. 3571, imprisoned no more than 12 months under 43 U.S.C. 1733(a) and 43 CFR 8360.0–7, or both. In accordance with 43 CFR 8365.1–7, State or local officials may also impose penalties for violations of Colorado law.

(Authority: 43 U.S.C. 1733(a), 1740; 43 CFR 8365.1–6).

Douglas Vilsack,

BLM Colorado State Director.

[FR Doc. 2024–01399 Filed 1–24–24; 8:45 am]

BILLING CODE 4331–16–P

DEPARTMENT OF TRANSPORTATION

Office of Secretary of Transportation

49 CFR Parts 80 and 260

[Docket Number DOT–OST–2024–0006]

RIN 2105–AE69

Amendment to the Railroad Rehabilitation and Improvement Financing Program and Transportation Infrastructure Finance and Innovation Act Program Regulations

AGENCY: Office of the Secretary of Transportation, Department of Transportation.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department of Transportation (''DOT'' or ''the Department'') proposes to implement provisions of the Infrastructure Investment and Jobs Act (the ''IIJA'') that expand or modify the authorities applicable to the Railroad Rehabilitation and Improvement Financing (''RRIF'') and Transportation Infrastructure

Finance and Innovation Act (''TIFIA'') programs, and make other necessary updates, by amending the RRIF program and TIFIA program regulations. DOT solicits written comments on this rulemaking.

DATES: Written comments will be accepted until February 26, 2024. We will consider late comments to the extent practicable.

ADDRESSES: Your comments may be submitted by one of the following methods:

- *Federal eRulemaking Portal:* Go to *www.regulations.gov* and follow the instructions for submitting comments.
- *Mail:* Send comments to Docket Operations, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Room W12–140, Washington, DC 20590.
- *Hand-Delivery or Courier:* Take comments to Docket Operations in Room W12–140 on the ground floor of the West Building at 1200 New Jersey Avenue SE, Washington, DC between 9 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

Instructions: All comments must include the agency name and docket number or Regulation Identifier Number (''RIN'') for this rulemaking. To avoid duplication, please submit comments using only one of the above methods. For detailed instructions on submitting comments and additional information on the rulemaking process, see the section entitled Public Comment Procedures.

FOR FURTHER INFORMATION CONTACT: For technical questions concerning this proposed rule, contact Tanya Langman of the National Surface Transportation and Innovative Finance Bureau at 1200 New Jersey Avenue SE, Washington, DC 20590, (202) 366–2300, email at *tanya.langman@dot.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction and Background

The National Surface Transportation and Innovative Finance Bureau, also known as the Build America Bureau (the ''Bureau''), administers certain Department of Transportation lending programs, including under Title V of the Railroad Revitalization and Regulatory Reform Act of 1976, as amended (the ''RRIF Act''),[1] and the Transportation Infrastructure Finance and Innovation Act of 1998, as amended (the ''TIFIA Act,'' and together with the RRIF Act, the ''Acts'').[2] The RRIF Act authorizes the Secretary of Transportation (the ''Secretary'') to make direct loans and loan guarantees for eligible projects that meet enumerated criteria,[3] and the TIFIA Act authorizes the Secretary to issue secured loans, loan guarantees, and lines of credit for eligible projects that meet statutory factors.[4] The Bureau has administered both programs pursuant to their respective regulations set forth at 49 CFR part 260 (the ''RRIF Rule'') and 49 CFR part 80 (the ''TIFIA Rule,'' and together with the RRIF Rule, the ''Rules''), as well as additional criteria in notices of funding, which are issued and updated from time to time, and guidance [5] to applicants.

The IIJA [6] was enacted in November 2021, as a historic investment in the Nation's infrastructure. That investment includes the expansion and modification of the authorities in the Acts. Specifically, the IIJA authorizes a longer term for both RRIF and TIFIA obligations than was previously allowed,[7] expands the definition of projects eligible for TIFIA funding,[8] and adds a requirement that the Secretary return credit risk premiums paid to the Government plus accrued interest to the source of the payment when all obligations of a loan or loan guarantee have been satisfied.[9] The Bureau proposes to implement these provisions of the IIJA by amending the Rules.

II. Discussion of Proposed Rule

A. Interest Rate Setting for TIFIA and RRIF Obligations With a Long Tenor

The IIJA amends both Acts to allow obligations with long tenors. Section 21301(d)(6) of the IIJA amends Section 22402(g)(1) of the RRIF Act to allow the Secretary to issue direct loans or loan guarantees with a term that is not longer than the shorter of:

(A) 75 years after the date of substantial completion of the project;

(B) the estimated useful life of the rail equipment or facilities to be acquired, rehabilitated, improved, developed, or established, subject to an adequate determination of long-term risk; or

(C) for projects determined to have an estimated useful life that is longer than 35 years, the period that is equal to the sum of—

(i) 35 years; and

(ii) the product of—

(I) the difference between the estimated useful life and 35 years; multiplied by

(II) 75 percent.[10]

Similarly, capital assets with an estimated life of more than 50 years may be issued a TIFIA secured loan or loan guarantee with a final maturity date that is the lesser of:

(i) 75 years after the date of substantial completion of the project; or

(ii) 75 percent of the estimated useful life of the capital asset.[11]

The RRIF Act, and the TIFIA Act, except as provided in 23 U.S.C. 603(b)(4)(B)–(C), require that the interest rate on a loan be not less than the yield on United States Treasury securities of a similar maturity.[12] Both RRIF and TIFIA obligations currently bear interest at a fixed rate, calculated by adding one basis point (.01%) to the interest rate of securities of a similar maturity as published, on the execution date of the loan agreement, in the United States Treasury Bureau of Public Debt's daily rate table for State and Local Government Series (SLGS) securities. The daily rate table for SLGS securities, however, does not currently post rates for maturities longer than 30–40 years.

The Bureau proposes to amend the Rules to address compliance with these interest rate requirements for RRIF or TIFIA obligations if the United States Treasury does not post the yield for securities of a similar maturity. The amended Rules will require an interest rate spread on any RRIF or TIFIA loan with both: (1) a final maturity date that is more than 35 years after the date of substantial completion of the project; and (2) a loan term—the period beginning on the date of execution of the loan agreement and ending on the final maturity date—that is more than 40 years. The interest rate will be equal to not less than the rate on thirty-to-forty-year SLGS securities plus an annual interest rate adjustment for any period of the loan term after year 40

[1] Public Law 94–210, title V (1976), codified by Public Law 117–58 (2021) as chapter 224 of title 49; 49 U.S.C. Ch. 224.

[2] Public Law 105–178, sec. 1504–10 (1998); 23 U.S.C. Ch. 6.

[3] 49 U.S.C. 22402(b)(1).

[4] 23 U.S.C. 603(a), 603(e), and 604(a).

[5] *https://www.transportation.gov/buildamerica/financing/program-guide.*

[6] Public Law 117–58 (2021).

[7] Public Law 117–58, sec. 12001(e)(2), 21301(d)(6) (2021).

[8] Public Law 117–58, sec. 12001(a) (2021).

[9] Public Law 117–58, sec. 21301(d)(5)(B) (2021).

[10] 49 U.S.C. 22402(g)(1), as amended through Public Law 117–58, sec. 21301(d)(6) (2021).

[11] 23 U.S.C. 603(b)(5)(C), as added by Public Law 117–58, sec. 12001(e)(2) (2021).

[12] 49 U.S.C. 22402(e); 23 U.S.C. 603(b)(4)(A).

through year 100, as detailed in § 80.23 of this proposed rulemaking. This interest rate adjustment will be cumulative.

The conceptual framework and methodology for the interest rate adjustment on loans with long tenors is in large part based on results from a working paper out of the San Francisco Federal Reserve Bank.[13] Relying both on bonds with long tenors originated by other countries as well as an extrapolation of United States Treasury data using a statistical model, the paper found a difference centering around 14 basis points between 30-year and hypothetical 50-year Treasury rates. This finding is further supported by both the Treasury Nominal Coupon [14] and High Quality Market Corporate Bond Par Yield [15] interest rate spread over the time period sampled in the Federal Reserve paper. The proposed annual interest rate adjustment is consistent with the above findings and data. A 14-basis point spread is reflected in the proposed rate adjustment for each year between year 40 and 50.

Consistent with financial theory and historic tendencies, both the High Quality Market Corporate Bond Par Yield and the Treasury Nominal Coupon anticipate milder increases in interest rates after year 50 than before. Accordingly, the Bureau does not expect that the interest rates on hypothetical Treasury securities would grow linearly from year 51. Instead, the rates for such maturities would be expected to flatten out in the outyears. To reflect this expectation, the Bureau proposes to lower the interest rate adjustment in the outyears. Specifically, the Bureau proposes to add 0.4 basis points for each year between years 51 and 70, and 0.2 basis points for each year between years 71 and 100. This tapering is consistent with the projected flattening of the Treasury Nominal Coupon and High Quality Market Corporate Bond yield curves beyond 2050.

B. Interest Rate Spread on RRIF Direct Loans and Loan Guarantees With a Positive CRP

The Federal Credit Reform Act of 1990, as amended (''FCRA''),[16] requires that new direct loan obligations and new loan guarantee commitments be made only to the extent that: (1) new budget authority to cover their costs is provided in advance in an appropriations Act; (2) a limitation on the use of funds otherwise available for the cost of a direct loan or loan guarantee program has been provided in advance in an appropriations Act; or 3) authority is otherwise provided in appropriation Acts.[17] Section 22402(f) of the RRIF Act provides that a source of the subsidy cost [18] may be either appropriated budget authority, funds from a non-Federal source, or any combination thereof. In the absence of appropriated budget authority for RRIF loan subsidy, the subsidy cost associated with any RRIF direct loan or loan guarantee must be provided by the borrower or project infrastructure partner, which includes any participant in the project.[19] This subsidy cost, referred to as the credit risk premium (''CRP'') in the RRIF statute, is determined by estimating the total long-term cost to the Federal Government of the RRIF direct loan or loan guarantee.[20] The CRP must be paid before the disbursements of the direct loan.[21]

Section 21301(d)(5)(B) of the IIJA amends Section 22402(f)(7) of the RRIF Act to require the Secretary to ''return credit risk premiums paid, and interest accrued on such premiums, to the original source when all obligations of a loan or loan guarantee have been satisfied.'' [22] However, without an appropriation from Congress to cover a loan's subsidy cost, under FCRA budgeting requirements a loan's CRP would be cost prohibitive in order to be returned to the original source. To avoid an outcome in which the CRP due by a borrower impedes the issuance of RRIF direct loans, the Bureau proposes to amend the RRIF Rule to add a credit spread to the interest rate charged on any RRIF direct loan or loan guarantee that is projected to have a positive subsidy cost (*i.e.,* would require the payment of CRP). The additional interest would not qualify as a CRP payment and would not be returned to the original source once the obligation is satisfied. Amendments to update the TIFIA and RRIF regulations in other areas not addressed in this rulemaking will be included in a subsequent rulemaking at a later date.

C. Inclusion in Transportation Plans and Programs

The TIFIA Act requires a project to ''satisfy the applicable planning and programming requirements of sections 134 and 135 at such time as an agreement to make available a Federal credit instrument is entered into under the TIFIA program.'' [23] This requirement was added by the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU).[24] Prior to this amendment, the TIFIA Act included a similar, but more specific provision.[25]

The TIFIA Rule was published in 1998 [26] and section 80.13, which includes language about the inclusion of projects in transportation plans and programs, has not been amended since then. As a result, section 80.13 mirrors the pre-SAFETEA–LU statutory language. The Bureau proposes to amend the TIFIA Rule to reflect the current statutory requirements of 23 U.S.C. 602(a)(3).

III. Public Comment Procedures

Interested persons are invited to participate in this proposed rulemaking by submitting data, views, and comments. Written comments must include the agency name and docket number or Regulation Identifier Number (''RIN''), RIN 2105–AE69, and should be submitted to one of the addresses indicated in the **ADDRESSES** section of this Notice of Proposed Rulemaking. To help the Bureau review the comments, interested persons are asked to refer to specific proposed rule provisions, whenever possible.

The Bureau will consider all comments received before the close of business on the comment closing date indicated above under **DATES**.

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 on the ground floor of the West Building at 1200 New Jersey Avenue SE,

[13] *https://www.frbsf.org/wp-content/uploads/sites/4/wp2021-19.pdf.*

[14] *https://home.treasury.gov/data/treasury-coupon-issues-and-corporate-bond-yield-curves/treasury-coupon-issues.*

[15] *https://home.treasury.gov/data/treasury-coupon-issues-and-corporate-bond-yield-curve/corporate-bond-yield-curve.*

[16] Public Law 101–508, title XIII (1990); 2 U.S.C. 661 *et seq.*

[17] 2 U.S.C. 661c(b).

[18] 2 U.S.C. 661a(5)(A).

[19] 49 U.S.C. 22402(f)(1). Please note that Congress appropriated $25M to cover RRIF subsidy costs, which the Bureau allocated to the RRIF Express Program, as laid out in the Notice of Funding Opportunity published at 88 FR 35995. Congress has further authorized $50M per year to cover RRIF subsidy costs, but that funding has not yet been appropriated to the Bureau.

[20] 49 U.S.C. 22402(f)(2).

[21] 49 U.S.C. 22402(f)(4).

[22] 49 U.S.C. 22402(f)(7), as amended through Public Law 117–58, sec. 21301(d)(5)(B) (2021).

[23] 23 U.S.C. 602(a)(3).

[24] Public Law 109–59 (2005).

[25] The text read: ''The project—

(A) shall be included in the State transportation plan required under section 135; and

(B) at such time as an agreement to make available a Federal credit instrument is entered into under this subchapter, shall be included in the approved State transportation improvement program required under section 134.''

[26] 64 FR 29750 (June 2, 1999).

Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

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.* If you submit information that you believe to be exempt by law from public disclosure, you should submit one complete copy, as well as one copy from which the information claimed to be exempt by law from public disclosure has been deleted. DOT is responsible for the final determination with regard to disclosure or nondisclosure of the information and for treating it in accordance with the DOT's Freedom of Information regulations (49 CFR part 7).

IV. Regulatory Review

A. Executive Order 12866

This proposed rule has been determined to not be a significant regulatory action under Executive Order 12866, ''Regulatory Planning and Review,'' 58 FR 51735 (October 4, 1993). Accordingly, this action was not subject to review under that Executive Order by the Office of Information and Regulatory Affairs within the Office of Management and Budget.

B. Rulemaking Summary, 5 U.S.C. 553(b)(4)

As required by 5 U.S.C. 553(b)(4), a summary of this rule can be found in the Abstract section of the Department's Unified Agenda entry for this rulemaking at *https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202304&RIN=2105-AE69.*

C. Paperwork Reduction Act

According to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), no Federal agency may collect or sponsor the collection of information, nor may it impose an information collection requirement unless it displays a currently valid Office of Management and Budget (OMB) control number. The Bureau received approval from OMB for use of its forms under OMB control number 2105–0569, with an expiration date of February 28, 2025. This proposed rule does not change that collection of information or create any collection of information, and therefore, is not subject to the Paperwork Reduction Act requirements.

D. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), as amended, requires preparation of an initial regulatory flexibility analysis for any rule that by law must be proposed for public comment, unless the Federal agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by Executive Order 13272, ''Proper Consideration of Small Entities in Agency Rulemaking,'' 67 FR 53461 (August 16, 2002), DOT issued procedures and policies to ensure that the potential impacts of its rules on small entities are properly considered during the rulemaking process and DOT has made its procedures and policies available on its website: *https://www.transportation.gov/regulations/rulemaking-requirements-concerning-small-entities.*

The Bureau has evaluated the effects of this proposed action on small entities and has determined that the proposed rule would not have a significant economic impact on a substantial number of small entities. First, the Bureau does not expect to enter into loans with a substantial number of small entities. In the last five years, the Bureau has obligated almost 40 loans under both the RRIF and TIFIA programs, and no borrowers have been small entities. Given that zero percent of borrowers were small entities in the time period sampled, the Bureau does not expect that a substantial percentage of borrowers will be small entities in the future. Second, the Bureau doesn't believe that this action would have a significant economic impact. The changes to the TIFIA Rule related to inclusion in the transportation plans and programs will not have any economic impact. While the changes to the Rules related to long-tenored obligations will raise interest rates for borrowers of long-tenored obligations, this impact can be avoided by a borrower opting for a loan term that is less than 40 years. A RRIF loan with a positive CRP will similarly have a higher interest rate, but the Bureau believes this economic impact is preferable to a CRP payment that is so large it is cost prohibitive. For those reasons, the Bureau certifies that this action would not have a significant economic impact on a substantial number of small entities.

E. Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1501 *et seq.*) requires each Federal agency, to the extent permitted by law, to prepare a written assessment of the effects of any Federal mandate in a proposed or final rule that may result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year. The proposed rule does not contain such a mandate; therefore, the analytical requirements of Title II of the Act do not apply.

F. Executive Order 12988

Executive Order 12988, ''Civil Justice Reform,'' 61 FR 4729 (February 7, 1996), requires that Federal agencies promulgating new regulations or reviewing existing regulations take steps to minimize litigation, eliminate ambiguity and to reduce burdens on the regulated public. The Bureau has reviewed this rulemaking and has determined that this rulemaking action conforms to the applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988.

G. Executive Order 13175

Consistent with Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments, 65 FR 67249 (Nov. 6, 2000), DOT ensures that Federally Recognized Tribes (Tribes) are given the opportunity to provide meaningful and timely input regarding proposed Federal actions that have the potential to affect uniquely or significantly their respective Tribes. The Bureau has not identified any unique or significant effects, environmental or otherwise, on Tribes resulting from this proposed rule.

H. Executive Order 13132

Executive Order 13132, ''Federalism,'' 64 FR 43255 (August 4, 1999) imposes certain requirements on agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. Agencies are required to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and carefully assess the necessity for such actions. DOT has examined this proposed rule and has determined that it would not preempt State law and would not have a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. No further action is required by Executive Order 13132.

List of Subjects

49 CFR Part 80

Credit, Highways and roads, Loan programs—transportation, Mass transportation, Railroads.

49 CFR Part 260

Loan programs—transportation, Railroads.

The Proposed Rule

In consideration of the foregoing, the Bureau proposes to amend Subtitle B of title 49 of the Code of Regulations, to read as follows:

PART 80—CREDIT ASSISTANCE FOR SURFACE TRANSPORTATION PROJECTS

■ 1. The authority citation for part 80 is amended to read as follows:

Authority: Secs. 1501 *et seq.,* Pub. L. 105–178, 112 Stat. 107, 241, as amended; 23 U.S.C. 601–611 and 315; 49 CFR 1.48 and 1.49.

§ 80.13 [Amended]

■ 2. In § 80.13:

■ a. Remove ''five'' in the introductory text of paragraph (a) and replace with ''three''.

■ b. Remove paragraphs (a)(1) and (a)(5) and renumber paragraphs (a)(2) through (a)(4) as (a)(1) through (a)(3).

■ 3. Add a new § 80.23 to read as follows:

§ 80.23 Loan terms.

(a) The interest rate on a secured loan will be not less than the rate on United States Treasury securities of a similar maturity to the maturity of the secured loan on the date of the execution of the loan agreement, except as provided in paragraph (b) of this section and chapter 6 of title 23 of the United States Code.

(b) If, on the date of the execution of the loan agreement, the United States Treasury does not post the rate of securities of a similar maturity to the maturity of the secured loan, the interest rate on any secured loan with both a final maturity date that is more than 35 years after the date of substantial completion of the project, and a loan term that is more than 40 years, will be equal to not less than the rate on thirty-to-forty year Treasury securities plus an annual interest rate adjustment. The annual interest rate adjustment will be, cumulatively:

(i) 1.4 basis points for each year of the loan term after year 40 to, but not including, year 51;

(ii) 0.4 basis points for each year of the loan term from year 51 to, but not including, year 71; and

(iii) 0.2 basis points for each year of the loan term from year 71 to year 100.

(c) For purposes of this section, ''loan term'' means the period beginning on the date of the execution of the loan agreement and ending on the final maturity date.

PART 260—REGULATIONS GOVERNING LOANS AND LOAN GUARANTEES UNDER THE RAILROAD REHABILITATION AND IMPROVEMENT FINANCING PROGRAM

■ 4. The authority citation for part 260 is amended to read as follows:

Authority: 49 U.S.C. 22401, 22402, 22403, 22404, 22405, 22406; 49 CFR 1.49.

■ 5. Revise § 260.9 to read as follows:

§ 260.9 Loan terms.

(a) The interest rate on a direct loan will be not less than the rate on United States Treasury securities of a similar maturity of the direct loan on the date of the execution of the loan agreement, except as described in paragraph (b) of this section and in § 260.17(d).

(b) If, on the date of the execution of the loan agreement, the United States Treasury does not post the rate of securities of a similar maturity of the direct loan, the interest rate on any direct loan with both a final maturity date that is more than 35 years after the date of substantial completion of the project, and a loan term that is more than 40 years, will be equal to not less than the rate on thirty-to-forty year Treasury securities plus an annual interest rate adjustment. The annual interest rate adjustment will be, cumulatively:

(i) 1.4 basis points for each year of the loan term after year 40 to, but not including, year 51;

(ii) 0.4 basis points for each year of the loan term from year 51 to, but not including, year 71; and

(iii) 0.2 basis points for each year of the loan term from year 71 to year 100.

(c) For purposes of this section, ''loan term'' means the period beginning on the date of the execution of the loan agreement and ending on the final maturity date.

§ 260.17 [Amended]

■ 6. Amend § 260.17 by adding paragraph (d) to read as follows:

* * * * *

(d) Positive Credit Risk Premium.

(1) Where the Credit Risk Premium determined pursuant to paragraph (a) of this section is a positive amount, the interest rate on the direct loan will be equal to not less than the rate set pursuant to section 260.9 plus an interest rate adjustment sufficient to result in a Credit Risk Premium of zero dollars.

(2) Paragraph (d)(1) of this section shall apply to a direct loan or loan guarantee only so long as the Act requires the Secretary to return Credit Risk Premiums paid on that loan or loan guarantee to the original source.

(Authority: Pub. L. 117–58, sec. 12001 and sec. 21301 (2021); 23 U.S.C. 601–611 and 315; 49 U.S.C. 22401–22406; and 49 CFR 121.)

Peter Paul Montgomery Buttigieg,

Secretary, Department of Transportation.

[FR Doc. 2024–01243 Filed 1–24–24; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[FF09E21000 FXES1111090FEDR 245]

Endangered and Threatened Wildlife and Plants; 90-Day Findings for 10 Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notification of petition findings and initiation of status reviews.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce 90-day findings on 10 petitions to add species to the Lists of Endangered and Threatened Wildlife and Plants under the Endangered Species Act of 1973, as amended (Act). Based on our review, we find that the petitions to list *Betta hendra, Betta rutilans,* Hickory Nut Gorge green salamander (*Aneides caryaensis*), pygmy rabbit (*Brachylagus idahoensis*), Railroad Valley toad (*Anaxyrus nevadensis*), Southern Plains bumble bee (*Bombus fraternus*), Southwest spring firefly (*Bicellonycha wickershamorum*), white-margined penstemon (*Penstemon albomarginatus*), and yellow-spotted woodland salamander (*Plethodon pauleyi*) present substantial scientific or commercial information indicating that the petitioned actions may be warranted. Therefore, with the publication of this document, we announce that we are initiating status reviews of these species to determine whether the petitioned actions are warranted. To ensure that the status reviews are comprehensive, we request scientific and commercial data and other information regarding the species and factors that may affect their status. Based on the status reviews, we will issue 12-month petition findings, which

will address whether or not the petitioned actions are warranted in accordance with the Act. We further find that the petition to list the eastern hellbender (*Cryptobranchus alleganiensis alleganiensis*) does not present substantial information indicating the petitioned action may be warranted. Therefore, we are not initiating a status review of the eastern hellbender.

DATES: These findings were made on January 25, 2024. As we commence our status reviews, we seek any new information concerning the status of, or threats to, *Betta hendra, Betta rutilans,* Hickory Nut Gorge green salamander, pygmy rabbit, Railroad Valley toad, Southern Plains bumble bee, Southwest spring firefly, white-margined penstemon, and yellow-spotted woodland salamander, or their habitats. Any information we receive during the course of our status reviews will be considered.

ADDRESSES:

Supporting documents: Summaries of the bases for the petition findings contained in this document are available on *https://www.regulations.gov* under the appropriate docket number (see tables under **SUPPLEMENTARY INFORMATION**). In addition, this supporting information is available by contacting the appropriate person, as specified in **FOR FURTHER INFORMATION CONTACT**.

Status reviews: If you have new scientific or commercial data or other information concerning the status of, or threats to, *Betta hendra, Betta rutilans,* Hickory Nut Gorge green salamander, pygmy rabbit, Railroad Valley toad, Southern Plains bumble bee, Southwest spring firefly, white-margined penstemon, and yellow-spotted woodland salamander, or their habitats, please provide those data or information by one of the following methods listed below. For *Betta hendra* and *Betta rutilans,* we specifically request information on information on any trade in the species, including evidence of trade levels, trends, and patterns, and any changes over time.

(1) *Electronically:* Go to the Federal eRulemaking Portal: *https://www.regulations.gov.* In the Search box, enter the appropriate docket number (see table 1 under **SUPPLEMENTARY INFORMATION**). Then, click on the ''Search'' button. After finding the correct document, you may submit information by clicking on ''Comment.'' If your information will fit in the provided comment box, please use this feature of *https://www.regulations.gov,* as it is most compatible with our information review procedures. If you attach your information as a separate document, our preferred file format is Microsoft Word. If you attach multiple comments (such as form letters), our preferred format is a spreadsheet in Microsoft Excel.

(2) *By hard copy:* Submit by U.S. mail to: Public Comments Processing, Attn: [Insert appropriate docket number; see table 1 under **SUPPLEMENTARY INFORMATION**], U.S. Fish and Wildlife Service, MS: PRB/3W, 5275 Leesburg Pike, Falls Church, VA 22041–3803.

We request that you send information only by the methods described above. We will post all information we receive on *https://www.regulations.gov.* This generally means that we will post any personal information you provide us (see Information Submitted for a Status Review, below).

FOR FURTHER INFORMATION CONTACT:

Species common name	Contact person
Betta hendra	Rachel London, Manager, Branch of Delisting and Foreign Species, Ecological Services Headquarters, 703–358–2491, *rachel_london@fws.gov.*
Betta rutilans	Rachel London, Manager, Branch of Delisting and Foreign Species, Ecological Services Headquarters, 703–358–2491, *rachel_london@fws.gov.*
eastern hellbender	Scott Hicks, Acting Field Office Supervisor, Ohio Ecological Services Field Office, 517–352–6274, *scott_hicks@fws.gov.*
Hickory Nut Gorge green salamander.	Sue Cameron, Biologist, Asheville North Carolina Field Office, 828–450–7469, *susan_cameron@fws.gov.*
pygmy rabbit	Anne Mankowski, Biologist, Reno Fish and Wildlife Office, 775–861–6301, *anne_mankowski@fws.gov.*
Railroad Valley toad	Justin Barrett, Acting Field Supervisor, Reno Fish and Wildlife Office, 775–861–6338, *justin_barrett@fws.gov.*
Southern Plains bumble bee	Kraig McPeek, Field Supervisor, Illinois/Iowa Ecological Services Field Office, 309–757–5800 x202, *kraig_mcpeek@fws.gov.*
Southwest spring firefly	Heather Whitlaw, Field Office Supervisor, Arizona Field Office, 806–773–5932, *heather_whitlaw@fws.gov.*
white-margined penstemon	Glen Knowles, Field Supervisor, Southern Nevada Fish and Wildlife Office, 702–515–5244, *glen_knowles@fws.gov.*
yellow-spotted woodland salamander.	Jennifer Norris, Field Office Supervisor, West Virginia Field Office, 304–704–0655, *jennifer_l_norris@fws.gov.*

Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION:

Information Submitted for a Status Review

You may submit your comments and materials concerning the status of, or threats to, *Betta hendra, Betta rutilans,* Hickory Nut Gorge green salamander, pygmy rabbit, Railroad Valley toad, Southern Plains bumble bee, Southwest spring firefly, white-margined penstemon, and yellow-spotted woodland salamander, or their habitats, by one of the methods listed in **ADDRESSES**. We request that you send comments only by the methods described in **ADDRESSES**. 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.

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 we used in preparing these findings, will be

available for public inspection on *https://www.regulations.gov.*

Background

Section 4 of the Act (16 U.S.C. 1533) and its implementing regulations in title 50 of the Code of Federal Regulations (50 CFR part 424) set forth the procedures for adding species to, removing species from, or reclassifying species on the Federal Lists of Endangered and Threatened Wildlife and Plants (Lists or List) in 50 CFR part 17. Section 4(b)(3)(A) of the Act requires that we make a finding on whether a petition to add a species to the List (*i.e.,* ''list'' a species), remove a species from the List (*i.e.,* ''delist'' a species), or change a listed species' status from endangered to threatened or from threatened to endangered (*i.e.,* ''reclassify'' a species) presents substantial scientific or commercial information indicating that the petitioned action may be warranted. To the maximum extent practicable, we are to make this finding within 90 days of our receipt of the petition and publish the finding promptly in the **Federal Register**.

Our regulations establish that substantial scientific or commercial information with regard to a 90-day petition finding refers to credible scientific or commercial information in support of the petition's claims such that a reasonable person conducting an impartial scientific review would conclude that the action proposed in the petition may be warranted (50 CFR 424.14(h)(1)(i)). A positive 90-day petition finding does not indicate that the petitioned action is warranted; the finding indicates only that the petitioned action may be warranted and that a full review should occur.

A species may be determined to be an endangered species or a threatened species because of one or more of the five factors described in section 4(a)(1) of the Act (16 U.S.C. 1533(a)(1)). The five factors are:

(a) The present or threatened destruction, modification, or curtailment of its habitat or range (Factor A);

(b) Overutilization for commercial, recreational, scientific, or educational purposes (Factor B);

(c) Disease or predation (Factor C);

(d) The inadequacy of existing regulatory mechanisms (Factor D); and

(e) Other natural or manmade factors affecting its continued existence (Factor E).

These factors represent broad categories of natural or human-caused actions or conditions that could have an effect on a species' continued existence. In evaluating these actions and conditions, we look for those that may have a negative effect on individuals of the species, as well as other actions or conditions that may ameliorate any negative effects or may have positive effects.

We use the term ''threat'' to refer in general to actions or conditions that are known to, or are reasonably likely to, affect individuals of a species negatively. The term ''threat'' includes actions or conditions that have a direct impact on individuals (direct impacts), as well as those that affect individuals through alteration of their habitat or required resources (stressors). The term ''threat'' may encompass—either together or separately—the source of the action or condition, or the action or condition itself. However, the mere identification of any threat(s) may not be sufficient to compel a finding that the information in the petition is substantial information indicating that the petitioned action may be warranted. The information presented in the petition must include evidence sufficient to suggest that these threats may be affecting the species to the point that the species may meet the definition of an endangered species or threatened species under the Act.

If we find that a petition presents such information, our subsequent status review will evaluate all identified threats by considering the individual-, population-, and species-level effects and the expected response by the species. We will evaluate individual threats and their expected effects on the species, then analyze the cumulative effect of the threats on the species as a whole. We also consider the cumulative effect of the threats in light of those actions and conditions that are expected to have positive effects on the species—such as any existing regulatory mechanisms or conservation efforts that may ameliorate threats. It is only after conducting this cumulative analysis of threats and the actions that may ameliorate them, and the expected effect on the species now and in the foreseeable future, that we can determine whether the species meets the definition of an endangered species or threatened species under the Act.

If we find that a petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted, the Act requires that we promptly commence a review of the status of the species, and we will subsequently complete a status review in accordance with our prioritization methodology for 12-month findings (81 FR 49248; July 27, 2016).

We note that designating critical habitat is not a petitionable action under the Act. Petitions to designate critical habitat (for species without existing critical habitat) are reviewed under the Administrative Procedure Act (5 U.S.C. 551 *et seq.*) and are not addressed in this finding (see 50 CFR 424.14(j)). To the maximum extent prudent and determinable, any proposed critical habitat will be addressed concurrently with a proposed rule to list a species, if applicable.

Summaries of Petition Findings

The petition findings contained in this document are listed in the tables below, and the basis for each finding, along with supporting information, is available on *https://www.regulations.gov* under the appropriate docket number.

TABLE 1—INTERNET SEARCH INFORMATION FOR SUBSTANTIAL FINDINGS FOR NINE SPECIES

Common name	Docket No.	URL to Docket on *https://www.regulations.gov*
Betta hendra	FWS–HQ–ES–2023–0152	*https://www.regulations.gov/FWS-HQ-ES-2023-0152.*
Betta rutilans	FWS–HQ–ES–2023–0153	*https://www.regulations.gov/FWS-HQ-ES-2023-0153.*
Hickory Nut Gorge green salamander.	FWS–R4–ES–2023–0139	*https://www.regulations.gov/FWS-R4-ES-2023-0139.*
Pygmy rabbit	FWS–R8–ES–2023–0146	*https://www.regulations.gov/FWS-R8-ES-2023-0146.*
Railroad Valley toad	FWS–R8–ES–2023–0142	*https://www.regulations.gov/FWS-R8-ES-2023-0142.*
Southern Plains bumble bee	FWS–R3–ES–2023–0137	*https://www.regulations.gov/FWS-R3-ES-2023-0137.*
Southwest spring firefly	FWS–R2–ES–2023–0136	*https://www.regulations.gov/FWS-R2-ES-2023-0136.*
White-margined penstemon	FWS–R8–ES–2023–0141	*https://www.regulations.gov/FWS-R8-ES-2023-0141.*
Yellow-spotted woodland salamander.	FWS–R5–ES–2023–0140	*https://www.regulations.gov/FWS-R5-ES-2023-0140.*

TABLE 2—INTERNET SEARCH INFORMATION FOR NOT-SUBSTANTIAL FINDING FOR EASTERN HELLBENDER

Docket No.	URL to Docket on *https://www.regulations.gov*
FWS–R3–ES–2023–0138	*https://www.regulations.gov/FWS-R3-ES-2023-0138.*

Evaluation of a Petition To List Betta Hendra

Species and Range

Betta hendra; Central Kalimantan, Borneo, Indonesia.

Petition History

On July 6, 2023, we received a petition dated July 5, 2023, from the Center for Biological Diversity and Monitor Conservation Research Society, requesting that *Betta hendra,* a fish species, be emergency listed as a threatened species or an endangered species under the Act. The petition clearly identified itself as such and included the requisite identification information for the petitioner, required at 50 CFR 424.14(c). Listing a species on an emergency basis is not a petitionable action under the Act, and the question of when to list on an emergency basis is left to the discretion of the Service. If the Service determines that the standard for emergency listing in section 4(b)(7) of the Act is met, the Service may exercise that discretion to take an emergency listing action at any time. Therefore, we are considering the July 5, 2023, petition as a petition to list the *Betta hendra*. This finding addresses the petition.

Finding

We reviewed the petition, sources cited in the petition, and other readily available information (within the constraints of the Act and 50 CFR 424.14(h)(1)). We considered the credible information that the petition provided regarding effects of the threats that fall within factors under the Act's section 4(a)(1) as potentially ameliorated or exacerbated by any existing regulatory mechanisms or conservation efforts. Based on our review of the petition and readily available information regarding habitat loss and degradation (Factor A), we find that the petition presents substantial scientific or commercial information indicating that listing *B. hendra* as a threatened species or an endangered species may be warranted. The petitioners also presented information suggesting overutilization for commercial and recreational purposes (Factor B) and climate change (Factor E) may be threats to *B. hendra.* We will fully evaluate these potential threats during our 12-month status review, pursuant to the Act's requirement to review the best scientific and commercial information available when making that finding.

The basis for our finding on this petition and other information regarding our review of the petition can be found at *https://www.regulations.gov* under Docket No. FWS–HQ–ES–2023–0152 under the Supporting Documents section.

Evaluation of a Petition To List Betta Rutilans

Species and Range

Betta rutilans; Kalimantan Barat (West Kalimantan), Borneo, Indonesia.

Petition History

On July 6, 2023, we received a petition dated July 5, 2023, from the Center for Biological Diversity and Monitor Conservation Research Society, requesting that *Betta rutilans,* a fish species, be emergency listed as a threatened species or an endangered species under the Act. The petition clearly identified itself as such and included the requisite identification information for the petitioner, required at 50 CFR 424.14(c). Listing a species on an emergency basis is not a petitionable action under the Act, and the question of when to list on an emergency basis is left to the discretion of the Service. If the Service determines that the standard for emergency listing in section 4(b)(7) of the Act is met, the Service may exercise that discretion to take an emergency listing action at any time. Therefore, we are considering the July 5, 2023, petition as a petition to list *Betta rutilans.* This finding addresses the petition.

Finding

We reviewed the petition, sources cited in the petition, and other readily available information (within the constraints of the Act and 50 CFR 424.14(h)(1)). We considered the credible information that the petition provided regarding effects of the threats that fall within factors under the Act's section 4(a)(1) as potentially ameliorated or exacerbated by any existing regulatory mechanisms or conservation efforts. Based on our review of the petition and readily available information regarding habitat loss and degradation (Factor A), we find that the petition presents substantial scientific or commercial information indicating that listing *B. rutilans* as a threatened species or an endangered species may be warranted. The petitioners also presented information suggesting overutilization for commercial and recreational purposes (Factor B) and climate change (Factor E) may be threats to *B. rutilans.* We will fully evaluate these potential threats during our 12-month status review, pursuant to the Act's requirement to review the best scientific and commercial information available when making that finding.

The basis for our finding on this petition and other information regarding our review of the petition can be found at *https://www.regulations.gov* under Docket No. FWS–HQ–ES–2023–0153 under the Supporting Documents section.

Evaluation of a Petition To List the Hickory Nut Gorge Green Salamander

Species and Range

Hickory Nut Gorge green salamander (*Aneides caryaensis*); North Carolina.

Petition History

On July 13, 2022, we received a petition from the Center for Biological Diversity and Defenders of Wildlife requesting that the Hickory Nut Gorge green salamander (*Aneides caryaensis*) be listed as a threatened species or an endangered species and critical habitat be designated for this species under the Act. The petition clearly identified itself as such and included the requisite identification information for the petitioner, required at 50 CFR 424.14(c). This finding addresses the petition.

Finding

We reviewed the petition, sources cited in the petition, and other readily available information. We considered the credible information that the petition provided regarding effects of the threats that fall within factors under the Act's section 4(a)(1) as potentially ameliorated or exacerbated by any existing regulatory mechanisms or conservation efforts. Based on our review of the petition and readily available information regarding development, including recreation and roads (Factor A), we find that the petition presents substantial scientific

or commercial information indicating that listing the Hickory Nut Gorge green salamander as a threatened species or endangered species may be warranted. The petitioners also presented information suggesting that logging, hemlock loss, invasive plant species, overutilization, disease, climate change, pollution, severe weather, catastrophic events, and the effects of small, isolated populations are threats to the Hickory Nut Gorge green salamander. We will fully evaluate these potential threats during our 12-month status review, pursuant to the Act's requirement to review the best scientific and commercial information available when making that finding.

The basis for our finding on this petition and other information regarding our review of the petition can be found at *https://www.regulations.gov* under Docket No. FWS–R4–ES–2023–0139 under the Supporting Documents section.

Evaluation of a Petition To List the Pygmy Rabbit

Species and Range

Pygmy rabbit (*Brachylagus idahoensis*); California, Colorado, Idaho, Montana, Nevada, Oregon, Utah, Wyoming, and the Columbia Basin Distinct Population Segment (DPS) in Washington State.

Petition History

On March 6, 2023, we received a petition from the Western Watersheds Project, Center for Biological Diversity, WildEarth Guardians, and the Defenders of Wildlife requesting that the pygmy rabbit (*Brachylagus idahoensis*) be listed as a threatened species or an endangered species and critical habitat be designated for this species under the Act. The petition clearly identified itself as such and included the requisite identification information for the petitioner, required at 50 CFR 424.14(c). This finding addresses the petition.

Finding

We reviewed the petition, sources cited in the petition, our 2010 not warranted 12-month finding (75 FR 60516; September 30, 2010), and other readily available information. The Columbia basin DPS of the pygmy rabbit has been listed as endangered since 2003. We considered the credible information that the petition provided regarding effects of the threats that fall within factors under the Act's section 4(a)(1) as potentially ameliorated or exacerbated by any existing regulatory mechanisms or conservation efforts. Based on our review of the petition and readily available information regarding the compound effects of fire, cheatgrass, and climate change (Factors A and E), we find that the petition presents substantial scientific or commercial information indicating that listing the pygmy rabbit rangewide, as a threatened species or an endangered species, may be warranted. The petitioners also presented information suggesting livestock grazing, oil and gas development, and disease may be threats to the pygmy rabbit. We will fully evaluate these potential threats during our 12-month status review, pursuant to the Act's requirement to review the best scientific and commercial information available when making that finding.

The basis for our finding on this petition and other information regarding our review of the petition can be found at *https://www.regulations.gov* under Docket No. FWS–R8–ES–2023–0146 under the Supporting Documents section.

Evaluation of a Petition To List the Railroad Valley Toad

Species and Range

Railroad Valley toad (*Anaxyrus nevadensis*); Nye County, Nevada.

Petition History

On May 5, 2022, we received a petition from the Center for Biological Diversity requesting that the Railroad Valley toad (*Anaxyrus nevadensis*) be listed as a threatened species or an endangered species and critical habitat be designated for this species under the Act. The petition clearly identified itself as such and included the requisite identification information for the petitioner, required at 50 CFR 424.14(c). This finding addresses the petition.

Finding

We reviewed the petition, sources cited in the petition, and other readily available information. We considered the credible information that the petition provided regarding effects of the threats that fall within factors under the Act's section 4(a)(1) as potentially ameliorated or exacerbated by any existing regulatory mechanisms or conservation efforts. Based on our review of the petition and readily available information regarding oil and gas extraction via hydraulic fracturing (Factor A) and lithium production (Factor A), we find that the petition presents substantial scientific or commercial information indicating that listing the Railroad Valley toad as a threatened species or an endangered species may be warranted. The petitioners also presented information suggesting livestock grazing, infrastructure, mining, disease, nonnative vegetation, climate change, and stochastic events may be threats to the Railroad Valley toad. We will fully evaluate these potential threats during our 12-month status review, pursuant to the Act's requirement to review the best scientific and commercial information available when making that finding.

The basis for our finding on this petition and other information regarding our review of the petition can be found at *https://www.regulations.gov* under Docket No. FWS–R8–ES–2023–0142 under the Supporting Documents section.

Evaluation of a Petition To List the Southern Plains Bumble Bee

Species and Range

Southern Plains bumble bee (*Bombus fraternus*); Alabama, Arkansas, Colorado, Florida, Georgia, Illinois, Iowa, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Nebraska, New Mexico, California, North Dakota, Ohio, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, Virginia, Wyoming.

Petition History

On July 27, 2022, we received a petition from the Center for Biological Diversity requesting that the Southern Plains bumble bee (*Bombus fraternus*) be listed as an endangered species and critical habitat be designated for this species under the Act. The petition clearly identified itself as such and included the requisite identification information for the petitioner, required at 50 CFR 424.14(c). This finding addresses the petition.

Finding

We reviewed the petition, sources cited in the petition, and other readily available information. We considered the credible information that the petition provided regarding effects of the threats that fall within factors under the Act's section 4(a)(1) as potentially ameliorated or exacerbated by any existing regulatory mechanisms or conservation efforts. Based on our review of the petition and readily available information regarding agriculture practices (Factor A) and pesticide use (Factor E), we find that the petition presents substantial scientific or commercial information indicating that listing the Southern Plains bumble bee as a threatened species or endangered species may be warranted. The petitioners also presented information suggesting nonnative

invasive species encroachment, grazing, honey bees, changes to fire regimes, disease, inadequacy of existing regulatory mechanisms, climate change, and the effects of small populations may be threats to the Southern Plains bumble bee. We will fully evaluate these potential threats during our 12-month status review, pursuant to the Act's requirement to review the best scientific and commercial information available when making that finding.

The basis for our finding on this petition and other information regarding our review of the petition can be found at *https://www.regulations.gov* under Docket No. FWS–R3–ES–2023–0137 under the Supporting Documents section.

Evaluation of a Petition To List the Southwest Spring Firefly

Species and Range

Southwest spring firefly (*Bicellonycha wickershamorum*); Arizona and New Mexico (United States), Sonora (Mexico).

Petition History

On March 30, 2023, we received a petition from The Xerces Society for Invertebrate Conservation and the New Mexico BioPark Society requesting that the Southwest spring firefly (*Bicellonycha wickershamorum*) be listed as an endangered species and critical habitat be designated for this species under the Act. The petition clearly identified itself as such and included the requisite identification information for the petitioner, required at 50 CFR 424.14(c). This finding addresses the petition.

Finding

We reviewed the petition, sources cited in the petition, and other readily available information. We considered the credible information that the petition provided regarding effects of the threats that fall within factors under the Act's section 4(a)(1) as potentially ameliorated or exacerbated by any existing regulatory mechanisms or conservation efforts. Based on our review of the petition and readily available information regarding loss and degradation of wetland habitats (Factor A), livestock grazing (Factor A), mining (Factor A), climate change (Factor E), and light pollution (Factor E), we find that the petition presents substantial scientific or commercial information indicating that listing the Southwest spring firefly as an endangered species may be warranted. We will fully evaluate these potential threats during our 12-month status review, pursuant to the Act's requirement to review the best scientific and commercial information available when making that finding.

The basis for our finding on this petition, and other information regarding our review of the petition, can be found at *https://www.regulations.gov* under Docket No. FWS–R2–ES–2023–0136 under the Supporting Documents section.

Evaluation of a Petition To List the White-Margined Penstemon

Species and Range

White-margined penstemon (*Penstemon albomarginatus*); Mohave County, Arizona; Nye and Clark Counties, Nevada; San Bernadino County, California.

Petition History

On March 16, 2023, we received a petition from the Center for Biological Diversity requesting that white-margined penstemon (*Penstemon albomarginatus*) be listed as a threatened species or an endangered species and critical habitat be designated for this species under the Act. The petition clearly identified itself as such and included the requisite identification information for the petitioner, required at 50 CFR 424.14(c). This finding addresses the petition.

Finding

We reviewed the petition, sources cited in the petition, and other readily available information. We considered the credible information that the petition provided regarding effects of the threats that fall within factors under the Act's section 4(a)(1) as potentially ameliorated or exacerbated by any existing regulatory mechanisms or conservation efforts. Based on our review of the petition, sources cited in the petition, and readily available information regarding habitat loss and degradation due to land development and off-highway vehicle use (Factor A) and effects of climate change (Factor E), we find that the petition presents substantial scientific or commercial information indicating that listing the white-margined penstemon as a threatened species or endangered species may be warranted. The petitioners also presented information suggesting cattle grazing (Factor A), insect and mammalian predation (Factor C), invasive plant species (Factor E), and pollinator limitation (Factor E) may be threats to the white-margined penstemon. We will fully evaluate these potential threats during our 12-month status review, pursuant to the Act's requirement to review the best scientific and commercial information available when making that finding.

The basis for our finding on this petition, and other information regarding our review of the petition, can be found at *https://www.regulations.gov* under Docket No. FWS–R8–ES–2023–0141 under the Supporting Documents section.

Evaluation of a Petition To List the Yellow-Spotted Woodland Salamander

Species and Range

Yellow-spotted woodland salamander (*Plethodon pauleyi*); West Virginia, Virginia, Kentucky, and Tennessee; range extends from the New River Gorge in West Virginia to Pine Mountain along the Kentucky and Tennessee border.

Petition History

On August 24, 2022, we received a petition from the Center for Biological Diversity, Appalachian Mountain Advocates, Appalachian Voices, Citizens Coal Council, The Clinch Coalition, Coal River Mountain Watch, Dogwood Alliance, Forest Keeper, Heartwood, Kentucky Heartwood, and Kentucky Waterways Alliance requesting that yellow-spotted woodland salamander (*Plethodon pauleyi*) be listed as a threatened species or an endangered species and critical habitat be designated for this species under the Act. The petition clearly identified itself as such and included the requisite identification information for the petitioner, required at 50 CFR 424.14(c). This finding addresses the petition.

Finding

We reviewed the petition, sources cited in the petition, and other readily available information. We considered the credible information that the petition provided regarding effects of the threats that fall within factors under section 4(a)(1) as potentially ameliorated or exacerbated by any existing regulatory mechanisms or conservation efforts. Based on our review of the petition and readily available information regarding mining operations (Factor A), land clearing (Factor A) and climate change (Factor E), we find that the petition presents substantial scientific or commercial information indicating that listing the yellow-spotted woodland salamander as a threatened species or an endangered species may be warranted. The petitioners also presented information suggesting that collection, predation, disease, invasive species, pollution, and recreation may be threats to the yellow-spotted woodland salamander. We will

fully evaluate these potential threats during our 12-month status review, pursuant to the Act's requirement to review the best scientific and commercial information available when making that finding.

The basis for our finding on this petition and other information regarding our review of the petition can be found at *https://www.regulations.gov* under Docket No. FWS–R5–ES–2023–0140 under the Supporting Documents section.

Evaluation of a Petition To List the Eastern Hellbender

Species and Range

Eastern hellbender (*Cryptobranchus alleganiensis alleganiensis*); Northeastern Mississippi, northern Alabama, northern Georgia, Tennessee, western North Carolina, western Virginia, West Virginia, Kentucky, southern Illinois, southern Indiana, Ohio, Pennsylvania, western Maryland, and southern New York, with disjunct populations occurring in east-central Missouri.

Petition History

On March 31, 2022, we received a petition from Jenna M. Hauck requesting that the eastern hellbender (*Cryptobranchus alleganiensis alleganiensis*) be listed as a threatened species under the Act. The petition clearly identified itself as such and included the requisite identification information for the petitioner, required at 50 CFR 424.14(c). This finding addresses the petition.

Finding

We reviewed the petition, sources cited in the petition, and other readily available information (within the constraints of the Act and 50 CFR 424.14(h)(1)). We considered the credible information that the petition provided regarding the individual and cumulative effects of threats that fall within factors under the Act's section 4(a)(1) as potentially ameliorated or exacerbated by any existing regulatory mechanisms or conservation efforts. Based on our review of the petition, sources cited in the petition, and other readily available information, we find that the petition does not provide substantial scientific or commercial information indicating that listing the eastern hellbender as a threatened species may be warranted. All of the information provided by the petitioner was already considered in our 2019 12-month finding for the species in which we determined that listing is not warranted (84 FR 13223; April 4, 2019). We are not initiating a status review of this species in response to this petition. However, we ask that the public submit to us any new information that becomes available concerning the status of, or threats to, this species or its habitat at any time (see **FOR FURTHER INFORMATION CONTACT**, above).

The basis for our finding on this petition, and other information regarding our review of the petition can be found at *https://www.regulations.gov* under Docket No. FWS–R3–ES–2023–0138 under the Supporting Documents section.

Conclusion

On the basis of our evaluation of the information presented in the petitions under sections 4(b)(3)(A) of the Act, we have determined that the petitions summarized above for *Betta hendra, Betta rutilans,* the Hickory Nut Gorge green salamander, pygmy rabbit, Railroad Valley toad, Southern Plains bumble bee, Southwest spring firefly, white-margined penstemon, and yellow-spotted woodland salamander present substantial scientific or commercial information indicating that the petitioned actions may be warranted. We are, therefore, initiating status reviews of these species to determine whether the actions are warranted under the Act. At the conclusion of the status reviews, we will issue findings, in accordance with section 4(b)(3)(B) of the Act, as to whether the petitioned actions are not warranted, warranted, or warranted but precluded by pending proposals to determine whether any species is an endangered species or a threatened species. In addition, we have determined that the petition summarized above for the eastern hellbender does not present substantial scientific or commercial information indicating that the petitioned action may be warranted. We are, therefore, not initiating a status review for the eastern hellbender in response to the petition.

Authors

The primary authors of this document are staff members of the Ecological Services Program, U.S. Fish and Wildlife Service.

Authority

The authority for these actions is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Martha Williams,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 2024–01454 Filed 1–24–24; 8:45 am]

BILLING CODE 4333–15–P

Notices

Federal Register

Vol. 89, No. 17

Thursday, January 25, 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.

AGENCY FOR INTERNATIONAL DEVELOPMENT

Privacy Act of 1974; System of Records

AGENCY: Agency for International for Development (USAID).

ACTION: Notice of new privacy act system of records.

SUMMARY: Pursuant to the provisions of the Privacy Act of 1974 (section 522a of title 5 of the United States Code [U.S.C.]), the United States Agency for International Development (USAID) proposes to establish a new System of Records titled, ''USAID 36: Private Sector Engagement Records.'' The purpose of the system is to administer USAID's Private Sector Engagement Policy and enhance the risk management activities in support of its trade and investment support services. This System of Records includes a Customer Relationship Management (CRM) tool that will function as a data warehouse that maintains information on business entities and their representatives that express interest in supporting or potentially supporting USAID's mission in foreign development. This information will be used by USAID to enhance transparency, improve coordination, as well as for monitoring and evaluation by USAID program offices.

DATES: Submit comments on or before February 26, 2024. This modified system of records will be effective February 26, 2024 upon publication. The Routine Uses are effective at the close of the comment period.

ADDRESSES: You may submit comments:

Electronic

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions on the website for submitting comments.
- *Email: Privacy@usaid.gov.*

Paper

- *Fax:* 202–916–4946.
- *Mail:* Chief Privacy Officer, United States Agency for International Development, 1300 Pennsylvania Avenue NW, Washington, DC 20523.

FOR FURTHER INFORMATION CONTACT: Ms. Celida A. Malone, USAID Privacy Program at United States Agency for International Development, Bureau for Management, Office of the Chief Information Officer, Information Assurance Division: ATTN: USAID Privacy Program, 1300 Pennsylvania Avenue NW, Washington, DC 20523, or by phone number at 202–916–4605.

SUPPLEMENTARY INFORMATION: The Private Sector Engagement (PSE) System of Records collects information on businesses, vendors, foundations and philanthropies, business associations, labor organizations, investment entities, and other private sector entities and their representatives that express interest in doing business in USAID-supported countries. USAID uses this information to improve collaboration and increase two-way trade and investment between the United States and USAID-supported countries, and to catalyze private sector resources to advance, sustain, and support U.S. global development and humanitarian assistance objectives.

USAID engages private sector entities in a variety of ways including, but not limited to: facilitating investment and transactions in beneficiary countries; co-funding public-private partnership programs and activities; reducing investment and programmatic risks; connecting businesses with U.S. government trade and investment support services; collaborating on public policy issues of mutual interest in USAID presence countries; exchanging information, perspectives, and analysis on issues of mutual interest; and advancing U.S. global development and humanitarian assistance objectives through private-sector investment and partnership.

This System of Records is designed to improve this engagement and enhance USAID's ability to manage its relationships with companies and other private sector entities interested in supporting U.S. global development and humanitarian assistance objectives in USAID supported countries.

Dated: November 29, 2023.

Mark Joseph Johnson,

Chief Privacy Officer, United States Agency for International Development.

SYSTEM NAME AND NUMBER:

USAID–36, Private Sector Engagement Records.

SECURITY CLASSIFICATION:

Sensitive But Unclassified.

SYSTEM LOCATION:

United States Agency for International Development (USAID), 1300 Pennsylvania Avenue NW, Washington, DC 20523; Salesforce, 7600 Doane Drive, Manassas, VA 20109; and other USAID facilities in the United States and throughout the world.

SYSTEM MANAGER:

Managing Director, Relationship Management Systems, USAID Private Sector Engagement Hub, Bureau for Inclusive Growth, Partnerships, and Innovation (IPI/PSE), United States Agency for International Development (USAID), 1300 Pennsylvania Avenue NW, Washington, DC 20004. Email: *crm@usaid.gov*.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Foreign Assistance Act of 1961 (FAA), as amended; and African Growth and Opportunity Act (AGOA) and Millennium Challenge Act Modernization Act (MCA Modernization Act), Public Law 115–167 Title II (2018).

PURPOSE OF THE SYSTEM:

The purpose of the system is to administer USAID's Private Sector Engagement Policy and enhance the risk management activities in support of its trade and investment support services. This System of Records includes a Customer Relationship Management (CRM) tool that will function as a data warehouse that maintains information on the directors, officers and employees of business entities that express interest in supporting or potentially supporting USAID's mission in foreign development. This information will be used by USAID to enhance transparency, improve coordination, as well as for monitoring and evaluation by USAID program offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This System of Records contains information about representatives of

current, former, and prospective applicants to USAID Private Sector Engagement programs, as well as personal and professional references of partners and participants supporting USAID Private Sector Engagement programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system maintains personal and commercial information, which includes:

- *Contact information:* name, business email address, business phone number(s), fax number, business address, title/position;
- *Biometric identifiers or data:* photos, signatures;
- *Demographic information:* sex/gender, marital status, personal and professional designations;
- *System and User Activity Logs:* users' login and system use activity including the date and time of each login, user activity within source IP address, geolocation, web browser, and computer platform;
- *Organization Documents:* business plans, proposals, company profiles, and/or business registration documents;
- *Contracts and Agreements:* memoranda of understanding, management agreements, non-disclosure agreements etc.; and
- *Financial information:* credit history information, regulatory compliance information, business taxpayer identification numbers, and investor commitments.

RECORD SOURCE CATEGORIES:

Information in this system is obtained from: authorized representatives of participating businesses and entities; employees of participating Federal agencies; existing USAID information systems; commercially licensed, publicly-available sources of business information; and U.S. Federal government data sources, registries, and listings, such as but not limited to the U.S. Department of Commerce Consolidated Screening List.

This information may be collected through a variety of electronic and non-electronic means, including: meetings and information that have been volunteered by the organization and individual (*e.g.,* business cards); emails and email signatures; registration for and/or participation in USAID events (*e.g.,* business roundtables); social media outlets; electronic feedback submissions; electronic requests for more information from the Agency; and contacting the Agency through various Agency-sponsored websites.

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) of the Privacy Act, all or a portion of the information contained in this system may be disclosed to authorized entities, as is determined to be relevant and necessary, outside USAID as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

(1) To third-party service providers contracted by USAID to facilitate and/or coordinate public-private collaboration and cooperation events and activities on behalf of USAID, such as but not limited to training, outreach, marketing, and matchmaking activities.

(2) To an agency or organization, including the USAID's Office of Inspector General, for the purpose of performing audit or oversight operations as authorized by law, but only such information as is necessary and relevant to such audit or oversight function.

(3) To the Department of Justice or other appropriate United States Government Agency when the records are arguably relevant to a proceeding in a court or other tribunal in which USAID or a USAID official, in his or her official capacity, is a party or has an interest, or when the litigation is likely to affect USAID.

(4) In the event of an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by statute or particular program pursuant thereto, to the appropriate agency, whether federal, state, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order involved.

(5) To appropriate officials and employees of a federal agency or entity when the information is relevant and necessary to a decision concerning the hiring or retention of an employee; the issuance of a security clearance; the reporting of an investigation of an employee; the assignment, detail, or deployment of an employee; the letting of a contract; or the approval of a grant or other benefits.

(6) To provide information to a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of the individual to whom the record pertains.

(7) To a court, magistrate, or other administrative body in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, or in connection with criminal proceedings, when the USAID is a party to the proceeding or has a significant interest in the proceeding.

(8) To the National Archives and Records Administration for the purposes of records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

(9) To disclose information to the Equal Employment Opportunity Commission when requested in connection with investigations into alleged or possible discrimination practices in the Federal sector, compliance by Federal agencies with the Uniform Guidelines on Employee Selection Procedures or other functions vested in the Commission and to otherwise ensure compliance with the provisions of 5 U.S.C. 7201.

(10) To appropriate agencies, entities, and persons when: (a) USAID suspects or has confirmed that there has been a breach of the system of records; (b) USAID has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, USAID (including its information systems, programs, and operations), the Federal Government, or national security; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with USAID's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

(11) To another Federal Department or Agency or Federal entity, when USAID determines information from this system of records is reasonably necessary to assist the recipient Department or Agency or entity in: (a) responding to a suspected or confirmed breach; or (b) 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, that might result from a suspected or confirmed breach.

(12) To another agency or agent of a Government jurisdiction within or under the control of the U.S. lawfully engaged in national security or homeland defense when disclosure is undertaken for intelligence, counterintelligence activities (as defined by 50 U.S.C. 3003(3)), counterterrorism, homeland security, or related law enforcement purposes, as authorized by U.S. law or Executive Order.

(13) To either House of Congress, or, to the extent of matter within its jurisdiction, any committee or subcommittee thereof, any joint

committee of Congress or subcommittee of any such joint committee. 5 U.S.C. 552a(b)(9).

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

All information contained in the System of Records is stored in electronic format. The data is encrypted at rest and in transit using Agency-approved, Federal Information Processing Standards (FIPS) compliant encryption mechanisms consistent with policy directives in USAID Automated Directive System 545, *Information System Security.* Users must be authenticated to the system where records are stored to retrieve the data.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

USAID's staff retrieves Private Sector Engagement records by entity name, affiliate/representative name, USAID assigned identifiers, and any other identifying data specified in the ''Categories of Records.''

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Private Sector Engagement records are retained, retired, and destroyed in accordance with the USAID Automated Directive System, Chapter 502, The USAID Records Management Program, and the USAID Records Disposition Schedules as approved by the National Archives and Records Administration (NARA). More specific information may be obtained by emailing USAID's Records Office at *recordsinquiry@usaid.gov.*

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Safeguards are implemented in accordance with the Privacy Act and the Federal Information Security Modernization Act of 2014 (FISMA), as well as the applicable system and business policies and procedures. These safeguards are evaluated on a recurring basis to ensure continued effective protections of the information contained within this System of Records.

To minimize the risk of unauthorized access, the System of Records employs various security controls, including explicit user access approval, multi-factor authentication, role-based access controls, data encryption, and routine monitoring of system and user activity used to maintain administrative records and perform other functions inherent in the administration and security of these records.

USAID has implemented controls to minimize the risk of compromising the information that is being processed, collected, transmitted and stored. Safeguards for systems, data, facilities, and storage containers/media include, but are not limited to the following administrative, technical and physical safeguards:

- Administrative—Security and Privacy program management functions including trained staff, implemented risk management frameworks and strategies, policies and procedures; security and privacy awareness and training; incident response and contingency plans; periodic privacy and security assessments; user agreements and access rules; and personnel security clearances and/or background checks as required.
- Technical—Access controls to limit access to only authorized personnel and to allow access only to the information required to perform official duties as assigned; audit controls to monitor activities on systems containing PII or other sensitive information; data protection which includes encryption of data-at-rest and in-transit; and person and/or entity identification and authentication to prevent unauthorized access to information or information systems.
- Physical Controls—Facility access controls include one or more of the following: guards and locked gates, doors, cabinets, etc. to limit physical access to systems, facilities, rooms, or other areas where sensitive data is stored.

RECORD ACCESS PROCEDURES:

Under the Privacy Act, individuals may request access to records about themselves. These individuals must be limited to citizens of the United States or aliens lawfully admitted for permanent residence. If a Federal department or agency, or a person who is not the individual who is the subject of the records, requests access to records about an individual, the written consent of the individual who is the subject of the records is required.

Individuals seeking access to information about themselves contained in this system of records should address inquiries to the Bureau for Management, Office of Management Services, Information and Records Division (M/MS/IRD), USAID Annex—Room 2.4.0C, 1300 Pennsylvania Avenue NW, Washington, DC 20523. The requester may complete and sign a USAID Form 507–1, Certification of Identity Form, or submit signed, written requests that should include the individual's full name, current address, telephone number, and this System of Records Notice number. In addition, the requester must provide either a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the following format:

If executed outside the United States: ''I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature).''

If executed within the United States, its territories, possessions, or commonwealths: ''I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature).''

CONTESTING RECORD PROCEDURES:

The USAID rules for accessing records, contesting contents, and appealing initial agency determinations are contained in 22 CFR 212 or may be obtained from the program manager or system owner.

NOTIFICATION PROCEDURES:

Individuals seeking to determine if information about themselves is contained in this System of Records should address inquiries to the Bureau for Management, Office of Management Services, Information and Records Division (M/MS/IRD), USAID Annex—Room 2.4.0C, 1300 Pennsylvania Avenue NW, Washington, DC 20523. Individuals may complete and sign a USAID Form 507–1, Certification of Identity Form, or submit signed, written requests that should include the individual's full name, current address, and telephone number. In addition, the requester must provide either a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the following format:

If executed outside the United States: ''I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature).''

If executed within the United States, its territories, possessions, or commonwealths: ''I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature).''

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

None.

Celida Ann Malone,

Government Privacy Task Lead.

[FR Doc. 2024–01452 Filed 1–24–24; 8:45 am]

BILLING CODE 6116–01–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested regarding; whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by February 26, 2024 will be considered. Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number, and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Animal and Plant Health Inspection Service

Title: Export Health Certificate for Animal Products.

OMB Control Number: 0579–0256.

Summary of Collection: The Animal Health Protection Act (AHPA) of 2002 is the primary Federal law governing the protection of animal health. The law gives the Secretary of Agriculture board authority to detect, control, or eradicate pests or diseases of livestock or poultry. The export of agricultural commodities, including animals and animal products, is a major business in the United States and contributes to a favorable balance of trade. To facilitate the export of U.S. animals and products, the U.S. Department of Agriculture, Animal and Plant Health Inspection Service (APHIS), Veterinary Services maintains information regarding the import health requirements of other countries for animals and animal products exported from the United States. Many countries that import animal products from the United States require a certification from APHIS that the United States is free of certain diseases. These countries may also require that our certification statement contain additional declarations regarding the U.S. animal products being exported. Regulations pertaining to export certification of animals and animal products are contained in 9 CFR part 91. VS forms 16–4 and VS 16–4A, Export Certificate for Animal Products and Export Certificate for Animal Products Continuation Sheet; a hearing request to appeal VS' decision to refuse to grant a certificate; a notification of tampered certificate; and letterhead certification can be used to meet these requirements.

Need and Use of the Information: VS forms 16–4 and 16–4A serve as the official certification that the United States is free of rinderpest, foot-and-mouth disease, classical swine fever, swine vesicular disease, African swine fever, bovine fever, bovine spongiform encephalopathy, and contagious bovine pleuropneuomia. APHIS will collect the exporter's name, address, the name and address of the consignee, the quantity, and unit of measure, type of product being exported, the exporter's identification, and type of conveyance (ship, train, and truck) that will transport the products. The form also asks for any declarations the receiving country might require such as statements concerning where the product originated and how it was processed. Without the information, many countries would not accept animal products from the United States, creating a serious trade imbalance and adversely affecting U.S. exporters.

Description of Respondents: Business or other-for-profit.

Number of Respondents: 32,687.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 58,165.

Animal and Plant Health Inspection Service

Title: Phytophthora Ramorum; Quarantine and Regulations.

OMB Control Number: 0579–0310.

Summary of Collection: Under the Plant Protection Act (7 U.S.C. 7701 *et seq.*), the Secretary of Agriculture, either independently or in cooperation with the States, is authorized to carry out operations or measures to detect, eradicate, suppress, control, prevent, or retard the spread of plant pest new to the United States or not widely distributed throughout the United States. Under ''Subpart X—Phytophthora Ramorum'' (7 CFR 301.92 through 301.92–12, referred to as the regulation), USDA's Animal and Plant Health Inspection Service (APHIS) restricts the interstate movement of certain regulated and restricted articles from quarantined areas and regulated establishments to prevent the artificial spread of Phytophthora ramorum, the pathogen that causes the plant disease commonly known as sudden oak death, ramorum left blight, and ramorum dieback.

Need and Use of the Information: To control the spread of P. ramorum, APHIS enters enter compliance agreements with State plant health agencies and businesses, conducts inspections and certifications of facilities and records, and requires plant testing. It also issues emergency action notifications.

Without these activities, P. ramorum would potentially spread spread to unaffected forests, adversely impacting the ecosystem balances, foreign/domestic nursery stocks, and lumber markets.

Description of Respondents: State plant health officials; Business or other for-profit.

Number of Respondents: 100.

Frequency of Responses: Reporting; Recordkeeping: On occasion.

Total Burden Hours: 259.

Animal and Plant Health Inspection Service

Title: Johne's Disease in Domestic Animals.

OMB Control Number: 0579–0338.

Summary of Collection: The Animal Health Protection Act of 2002 is the primary Federal law governing the protection of animal health. The law gives the Secretary of Agriculture broad authority to detect, control, or eradicate pests or diseases of livestock or poultry. The regulations in 9 CFR part 80 pertain specifically to the interstate movement of domestic animals that are positive to an official test for Johne's disease. These regulations provide that cattle, sheep, goats, and other domestic animals that are positive to an official test for Johne's disease may generally be moved interstate only to a recognized slaughtering establishment or to an approved livestock facility for sale to such an establishment. However, they may also be moved for purposes other

than slaughter under certain conditions. Moving Johne's-positive livestock interstate for slaughter or for other purposes without increasing the risk of disease spread requires a movement permit or an owner-shipper statement, official ear tags, and a permission to move request. Permission may also be sought, in writing, for movement of animals that do not have a permit, owner-shipper statement, or ear tags.

Need and Use of the Information: Animal and Plant Health Inspection Service (APHIS) will collect information using form VS Form 1–27, Permit for Movement of Restricted Animals, Official Ear Tags, and Request for Permission to Move. APHIS will collect the following information from VS Form 1–27: (1) The number of animals to be moved; (2) the species of the animals; (3) the points of origin and destination, and (4) the names and addresses of the consignor and the consignee. Failing to collect this information would greatly hinder the control of Johne's disease and possible lead to increased prevalence.

Description of Respondents: Business or other for-profit; Accredited Veterinarians.

Number of Respondents: 6.

Frequency of Responses: Reporting; On occasion.

Total Burden Hours: 7.

Animal Plant and Health Inspection Service

Title: Bovine Spongiform Encephalopathy (BSE); Importation of Animals and Animal Products.

OMB Control Number: 0579–0393.

Summary of Collection: The Animal Health Protection Act (AHPA) of 2002 is the primary Federal law governing the protection of animal health. The law gives the Secretary of Agriculture broad authority to detect, control, or eradicate pests or diseases of livestock or poultry. The Secretary may also prohibit or restrict import or export of any animal or related material if necessary to prevent the spread of any livestock or poultry pest or disease. The AHPA is contained in title X, subtitle E, sections 10401–18 of Public Law 107–171, May 13, 2002, the Farm Security and Rural Investment Act of 2002. The Animal and Plant Health Inspection Service (APHIS) regulates the importation of animals and animal products into the United States to guard against the introduction of animal diseases. The regulations in 9 CFR parts 92 through 98, govern the importation of certain animals, birds, poultry, meat, other animal products and byproducts, hay, and straw. It also contains measures for preventing the introduction of various diseases into the United States.

Need and Use of the Information: To ensure BSE is not introduced into the United States, the regulations place specific conditions on the importation of animals and animal products. These requirements necessitate the use of several information collection activities, including, but not limited to, certification, official identification, request for and retention of classification as negligible or controlled risk, declaration of importation, import and export certificates, applications, import and movement permits, agreements, certification statements, seals, notifications, and recordkeeping. Failure to collect this information would make it impossible for APHIS to effectively prevent BSE-contaminated animals and animal products from entering the United States, and to track movement of any imported BSE-contaminated animals or products within the United States post-arrival.

Description of Respondents: Business or other for-profit; Federal Government; Individuals.

Number of Respondents: 978.

Frequency of Responses: Reporting: Recordkeeping; On occasion.

Total Burden Hours: 663,779.

Levi S. Harrell,

Departmental Information Collection Clearance Officer.

[FR Doc. 2024–01421 Filed 1–24–24; 8:45 am]

BILLING CODE 3410–34–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meetings of the Missouri Advisory Committee to the U.S. Commission on Civil Rights

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 that the Missouri Advisory Committee (Committee) will hold a meeting on Thursday, February 8, 2024, at 3:00 p.m. Central time. The purpose of the meeting is for the Committee to evaluate testimony gathered during their current study and decide if more is needed.

DATES: The meeting will take place on Thursday, February 8, 2024, at 3:00 p.m. Central Time.

Public Call Information: Dial: (833) 435–1820, Confirmation Code: 160 238 2170

Zoom Link: https://www.zoomgov.com/j/1602382170

FOR FURTHER INFORMATION CONTACT: David Barreras, DFO, at *dbarreras@usccr.gov* or (202) 656–8937.

SUPPLEMENTARY INFORMATION: Members of the public may listen to this discussion through the above call in number. An open comment period will be provided to allow members of the public to make a statement as time allows. 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. Individual who is deaf, deafblind and hard of hear hearing may also follow the proceedings by first calling the Federal Relay Service at 1–800–877–8339 and providing the Service with the conference call number and confirmation code.

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 mailed to the Regional Programs Unit, U.S. Commission on Civil Rights, 230 S Dearborn, Suite 2120, Chicago, IL 60604. They may also be faxed to the Commission at (312) 353–8324, or emailed to Corrine Sanders at *csanders@usccr.gov.* Persons who desire additional information may contact the Regional Programs Unit at (312) 353–8311.

Records generated from this meeting may be inspected and reproduced at the Regional Programs Unit Office, as they become available, both before and after the meeting. Records of the meeting will be available via *www.facadatabase.gov* under the Commission on Civil Rights, Mississippi 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 Unit at the above email or street address.

Agenda

I. Welcome and Roll Call
II. Chair's Comments
III. Discuss Curriculum Testimony
IV. Public Comment
V. Next Steps
VI. Adjournment

Dated: January 22, 2024.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2024–01488 Filed 1–24–24; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Ohio Advisory Committee to the U.S. Commission on Civil Rights

AGENCY: U.S. Commission on Civil Rights.

ACTION: Notice of 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 Ohio Advisory Committee (Committee) to the U.S. Commission on Civil Rights will hold a series of public meetings via Zoom. The purpose of these meetings is discuss, revise, and vote, as needed, on matters related to the Committee's project on the source of income discrmination in Ohio housing.

DATES:

- Monday, February 5, 2024, from 3:00 p.m.–4:00 p.m. Eastern Time.
- Friday, March 8, 2024, from 12:00 p.m.–1:00 p.m. Eastern Time.
- Thursday, April 18, 2024, from 12:00 p.m.–1:00 p.m. Eastern Time.

ADDRESSES: These meetings will be held via Zoom.

February 5th Meeting

- *Registration Link (Audio/Visual): https://bit.ly/49eCcj9.*
- *Join by Phone (Audio Only):* 1–833–435–1820 USA Toll Free; Webinar ID: 160 954 2551#.

March 8th Meeting

- *Registration Link (Audio/Visual): https://bit.ly/3HkxCDQ.*
- *Join by Phone (Audio Only):* 1–833–435–1820 USA Toll Free; Webinar ID: 161 681 8099#.

April 18th Meeting

- *Registration Link (Audio/Visual): https://bit.ly/48UudHv.*
- *Join by Phone (Audio Only):* 1–833–435–1820 USA Toll Free; Webinar ID: 161 546 0524#.

FOR FURTHER INFORMATION CONTACT: Melissa Wojnaroski, Designated Federal Officer, at *mwojnaroski@usccr.gov* or 1–202–618–4158.

SUPPLEMENTARY INFORMATION: These Committee meetings are available to the public through the registration links above. Any interested members of the public may attend these meetings. An open comment period will be provided to allow members of the public to make oral statements as time allows. Pursuant to the Federal Advisory Committee Act, public minutes of the meeting will include a list of persons who are present at these 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 is available by selecting ''CC'' in the meeting platform. To request additional accommodations, please email *svillanueva@usccr.gov* at least 10 business days prior to each 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 scheduled meeting. Written comments may be emailed to Melissa Wojnaroski at *mwojnaroski@usccr.gov.* Persons who desire additional information may contact the Regional Programs Coordination Unit at 1–202–618–4158.

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 each meeting. Records of the meetings will be available via *www.facadatabase.gov* under the Commission on Civil Rights, Ohio 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 *svillanueva@usccr.gov.*

Agenda

I. Welcome and Roll Call
II. Approval of Minutes
III. Annoucements and Updates
IV. Committee Discussion
V. Next Steps
VI. Public Comment
VII. Adjournment

Dated: January 22, 2024.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2024–01435 Filed 1–24–24; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meetings of the New Mexico Advisory Committee; Update

AGENCY: Commission on Civil Rights.

ACTION: Notice; update webinar registration links.

SUMMARY: The Commission on Civil Rights published a notice in the **Federal Register** of Thursday, December 7, 2023, concerning various meetings of the New Mexico Advisory Committee. The document contained outdated registrations links. These are the updated webinar registration links as follows:

February 6
https://www.zoomgov.com/webinar/register/WN_DTG2mXQ_QWmzrsKFznMWlw
March 5
https://www.zoomgov.com/webinar/register/WN_zL_DChg8TrKVMaKhraA9pA
March 28
https://www.zoomgov.com/webinar/register/WN_sN2fpf9PTM2osHMy2cITXg

FOR FURTHER INFORMATION CONTACT: Brooke Peery, (202) 701–1376, *bpeery@usccr.gov.*

In the **Federal Register** of Friday, December 7, 2023, in FR Doc. 2023–28559, on page 89363, third column and page 89364, first and second columns, all times remain the same 12:00 p.m.–1:30 p.m. Mountain Time.

Dated: January 22, 2024.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2024–01489 Filed 1–24–24; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the North Carolina Advisory Committee to the U.S. Commission on Civil Rights

AGENCY: U.S. Commission on Civil Rights.

ACTION: Notice of public 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, that the North Carolina Advisory Committee (Committee) to the U.S. Commission on Civil Rights will hold a public meeting via Zoom at 12 p.m. ET on Wednesday, March 20, 2024. The purpose of this meeting is to discuss the Committee's project, *Civil Rights and the Child Welfare System in North Carolina.*

DATES: Wednesday, March 20, 2024, from 12:00 p.m.—1:30 p.m. eastern time.

ADDRESSES: The meeting will be held via Zoom Webinar.

Registration Link (Audio/Visual): https://www.zoomgov.com/s/1611379382.

Join by Phone (Audio Only): (833) 435–1820 USA Toll-Free; Meeting ID: 161 137 9382.

FOR FURTHER INFORMATION CONTACT: Victoria Moreno, Designated Federal Officer, at *vmoreno@usccr.gov* or (434) 515–0204.

SUPPLEMENTARY INFORMATION: This committee meeting is 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 Liliana Schiller, Support Services Specialist, at *lschiller@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 Victoria Moreno at *vmoreno@usccr.gov.* Persons who desire additional information may contact the Regional Programs Coordination Unit at (312) 353–8311.

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, North Carolina 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 *lschiller@usccr.gov.*

Agenda

I. Welcome & Roll Call
II. Committee Discussion: Child Welfare System
III. Public Comment
IV. Next Steps
V. Adjournment

Dated: January 22, 2024.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2024–01447 Filed 1–24–24; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the North Carolina Advisory Committee to the U.S. Commission on Civil Rights

AGENCY: U.S. Commission on Civil Rights.

ACTION: Notice of public 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, that the North Carolina Advisory Committee (Committee) to the U.S. Commission on Civil Rights will hold a public meeting via Zoom at 12 p.m. ET on Wednesday, May 29, 2024. The purpose of this meeting is to discuss the Committee's project, *Civil Rights and the Child Welfare System in North Carolina.*

DATES: Wednesday, May 29, 2024, from 12 p.m.–1:30 p.m. eastern time.

ADDRESSES: The meeting will be held via Zoom Webinar.

Registration Link (Audio/Visual): https://www.zoomgov.com/s/1605581078.

Join by Phone (Audio Only): (833) 435–1820 USA Toll-Free; Meeting ID: 160 558 1078.

FOR FURTHER INFORMATION CONTACT: Victoria Moreno, Designated Federal Officer, at *vmoreno@usccr.gov* or (434) 515–0204.

SUPPLEMENTARY INFORMATION: This committee meeting is 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 Liliana Schiller, Support Services Specialist, at *lschiller@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 Victoria Moreno at *vmoreno@usccr.gov.* Persons who desire additional information may contact the Regional Programs Coordination Unit at (312) 353–8311.

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, North Carolina 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 *lschiller@usccr.gov.*

Agenda

I. Welcome & Roll Call
II. Committee Discussion: Child Welfare System
III. Public Comment
IV. Next Steps
V. Adjournment

Dated: January 22, 2024.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2024–01445 Filed 1–24–24; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Colorado Advisory Committee to the U.S. Commission on Civil Rights

AGENCY: U.S. Commission on Civil Rights.

ACTION: Notice of public 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 that the Colorado Advisory Committee (Committee) to the U.S. Commission on Civil Rights will convene a monthly virtual business meeting on Wednesday, February 21, 2024, at 3 p.m. Mountain Time. The purpose of the meeting is to continue working on its project on public school attendance zones in Colorado.

DATES: Wednesday, February 21, 2024, at 3 p.m. Mountain Time.

ADDRESSES: The meeting will be held via Zoom.

Meeting Link (Audio/Visual): https://tinyurl.com/279fjudv; password: USCCR–CO

Join by Phone (Audio Only): 1–833 435 1820; Meeting ID: 160 614 2807#

FOR FURTHER INFORMATION CONTACT: Barbara Delaviez, Designated Federal Official at *bdelaviez@usccr.gov,* (312) 353–8311.

SUPPLEMENTARY INFORMATION: These committee meeting is available to the public through the meeting link above. Any interested member of the public may listen to the meeting. At 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 *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 meetings. Written comments may be emailed to Barbara Delaviez at *bdelaviez@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 meetings. Records of the meeting will be available via *www.facadatabase.gov* under the Commission on Civil Rights, Colorado 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 and Roll Call
II. Report Stage: Public School Attendance Zones
III. Discuss Next Steps
IV. Public Comment
V. Adjournment

Dated: January 22, 2024.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2024–01483 Filed 1–24–24; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the North Carolina Advisory Committee to the U.S. Commission on Civil Rights

AGENCY: U.S. Commission on Civil Rights.

ACTION: Notice of public 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, that the North Carolina Advisory Committee (Committee) to the U.S. Commission on Civil Rights will hold a public meeting via Zoom at 12:00 p.m. ET on Tuesday, April 23, 2024. The purpose of this meeting is to discuss the Committee's project, *Civil Rights and the Child Welfare System in North Carolina.*

DATES: Tuesday, April 23, 2024, from 12:00 p.m.–1:30 p.m. eastern time.

ADDRESSES: The meeting will be held via Zoom Webinar.

Registration Link (Audio/Visual): https://www.zoomgov.com/s/1606885960.

Join by Phone (Audio Only): (833) 435–1820 USA Toll-Free; Meeting ID: 160 688 5960.

FOR FURTHER INFORMATION CONTACT: Victoria Moreno, Designated Federal Officer, at *vmoreno@usccr.gov* or (434) 515–0204.

SUPPLEMENTARY INFORMATION: This committee meeting is 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 Liliana Schiller, Support Services Specialist, at *lschiller@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 Victoria Moreno at *vmoreno@usccr.gov.* Persons who desire additional information may contact the Regional Programs Coordination Unit at (312) 353–8311.

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, North Carolina 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 *lschiller@usccr.gov.*

Agenda

I. Welcome & Roll Call
II. Committee Discussion: Child Welfare System
III. Public Comment
IV. Next Steps
V. Adjournment

Dated: January 22, 2024.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2024–01446 Filed 1–24–24; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Notice of Public Briefing of the Mississippi Advisory Committee to the U.S. Commission on Civil Rights

AGENCY: Commission on Civil Rights.

ACTION: Announcement of briefing.

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 Mississippi Advisory Committee (Committee) will hold a briefing on Wednesday, February 21, 2024 at 1:00 p.m. Central time. The Committee will host a virtual briefing on education funding in the state of Mississippi.

DATES: The briefing will take place on Wednesday February 21, 2024, at 1:00 p.m. Central Time.

ADDRESSES:

Dial: 833–435–1820, *Confirmation Code:* 161 499 4067

Join from the meeting link *https://www.zoomgov.com/j/1614994067*

FOR FURTHER INFORMATION CONTACT: David Barreras, DFO, at *dbarreras@usccr.gov* or (202) 656–8937

SUPPLEMENTARY INFORMATION: Members of the public may listen to this discussion through the above call-in number. An open comment period will be provided to allow members of the public to make a statement as time allows. 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. Individuals who are deaf, deafblind and hard of hear hearing may also follow the proceedings by first calling the Federal Relay Service at 1–800–877–8339 and providing the Service with the conference call number and confirmation code.

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 mailed to the Regional Programs Unit, U.S. Commission on Civil Rights, 230 S Dearborn, Suite 2120, Chicago, IL 60604. They may also be faxed to the Commission at (312) 353–8324 or emailed to Corrine Sanders at *csanders@usccr.gov.* Persons who desire additional information may contact the Regional Programs Unit at (312) 353–8311.

Records generated from this meeting may be inspected and reproduced at the Regional Programs Unit Office, as they become available, both before and after the meeting. Records of the meeting will be available via *www.facadatabase.gov* under the Commission on Civil Rights, Mississippi 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 Unit at the above email or street address.

Agenda

I. Welcome and Roll Call
II. Chair's Comments and Briefing Introduction
III. Public Comment
IV. Next Steps
V. Adjournment

Dated: January 22, 2024.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2024–01487 Filed 1–24–24; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Arizona Advisory Committee

AGENCY: U.S. 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 briefing of the Arizona Advisory Committee (Committee) to the U.S. Commission on Civil Right will convene via ZoomGov on Friday, February 2, 2024, from 3:00 p.m.–4:30 p.m. Arizona Time. The purpose of the briefing is to collect testimony related to racial and ethnic disparities in pediatric healthcare in the state.

DATES: The briefing will take place on:

• Friday, February 2, 2024, from 3:00 p.m.–4:30 p.m. Arizona Time.

Link to Join (Audio/Visual): https://www.zoomgov.com/webinar/register/WN_-j18fq5_RaO6xuRe4P1_jQ.

Telephone (Audio Only) Dial: 1–833–435–1820 (US Toll-free); Meeting ID: 160 428 6230#.

FOR FURTHER INFORMATION CONTACT: Ana Fortes, DFO, at *afortes@usccr.gov* or (202) 681–0857.

SUPPLEMENTARY INFORMATION: Committee meetings are available to the public through the videoconference 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. 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 can be sent via email to Ana Fortes (DFO) at *afortes@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, Arizona 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. Introductory Remarks
II. Presentation by Dr. Marlene Melk, Chief Medical Officer, Chiricahua Community Health Centers, Inc.
III. Q & A
IV. Public Comment
V. Committee Business Meeting
VI. Adjournment

Dated: January 22, 2024.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2024–01434 Filed 1–24–24; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the North Carolina Advisory Committee to the U.S. Commission on Civil Rights

AGENCY: U.S. Commission on Civil Rights.

ACTION: Notice 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, that the North Carolina Advisory Committee (Committee) to the U.S. Commission on Civil Rights will hold a public meeting via Zoom at 12:00 p.m. ET on Tuesday, February 20, 2024. The purpose of this meeting is to discuss the Committee's project, *Civil Rights and the Child Welfare System in North Carolina.*

DATES: Tuesday, February 20, 2024, from 12:00 p.m.–1:30 p.m. Eastern Time.

ADDRESSES: The meeting will be held via Zoom Webinar.

Registration Link (Audio/Visual): https://www.zoomgov.com/s/1600680636.

Join by Phone (Audio Only): (833) 435–1820 USA Toll-Free; Meeting ID: 160 068 0636.

FOR FURTHER INFORMATION CONTACT: Victoria Moreno, Designated Federal Officer, at *vmoreno@usccr.gov* or (434) 515–0204.

SUPPLEMENTARY INFORMATION: This committee meeting is 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 Liliana Schiller, Support Services Specialist, at *lschiller@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 Victoria Moreno at *vmoreno@usccr.gov.* Persons who desire additional information may contact the Regional Programs Coordination Unit at (312) 353–8311.

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, North Carolina 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 *lschiller@usccr.gov.*

Agenda

I. Welcome & Roll Call
II. Committee Discussion: Child Welfare System
III. Public Comment
IV. Next Steps
V. Adjournment

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2024–01440 Filed 1–24–24; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the North Carolina Advisory Committee to the U.S. Commission on Civil Rights

AGENCY: U.S. Commission on Civil Rights.

ACTION: Notice of public 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, that the North Carolina Advisory Committee (Committee) to the U.S. Commission on Civil Rights will hold a public meeting via Zoom at 12 p.m. ET on Tuesday, February 20, 2024. The purpose of this meeting is to discuss the Committee's project, *Civil Rights and the Child Welfare System in North Carolina.*

DATES: Tuesday, February 20, 2024, from 12 p.m.–1:30 p.m. eastern time.

ADDRESSES: The meeting will be held via Zoom Webinar.

Registration Link (Audio/Visual): https://www.zoomgov.com/s/1600680636.

Join by Phone (Audio Only): (833) 435–1820 USA Toll-Free; Meeting ID: 160 068 0636.

FOR FURTHER INFORMATION CONTACT: Victoria Moreno, Designated Federal Officer, at *vmoreno@usccr.gov* or (434) 515–0204.

SUPPLEMENTARY INFORMATION: This committee meeting is 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 Liliana Schiller, Support Services Specialist, at *lschiller@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 Victoria Moreno at *vmoreno@usccr.gov.* Persons who desire additional information may contact the Regional Programs Coordination Unit at (312) 353–8311.

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, North Carolina 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 *lschiller@usccr.gov.*

Agenda

I. Welcome & Roll Call
II. Committee Discussion: Child Welfare System
III. Public Comment
IV. Next Steps
V. Adjournment

Dated: January 22, 2024.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2024–01448 Filed 1–24–24; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

First Responder Network Authority

Combined Board and Board Finance and Investment Committee Meeting

AGENCY: First Responder Network Authority (FirstNet Authority), National Telecommunications and Information Administration (NTIA), U.S. Department of Commerce.

ACTION: Announcement of meeting.

SUMMARY: The FirstNet Authority Board and Board Finance and Investment Committee will convene a virtual meeting on January 29, 2024.

DATES: January 29, 2024; 3 p.m. to 4 p.m. Eastern Daylight Time (EDT).

ADDRESSES: The meeting will be held virtually. Members of the public are not able to attend in-person but may listen to the meeting and view the presentation by visiting the URL: *https://firstnet.webex.com/firstnet/j.php?MTID=mec0e9d7798ef2007c0bce5ed17d43b4b.*

Meeting Number: 2822 733 4965.

Password: H3Qvm5XD4cx.

Call In (Audio Only): 415–527–5035.

Access Code: 2822 733 4965.

If you experience technical difficulty, please contact the FirstNet Authority Customer Support Service Desk at *CSSD@FirstNet.gov.*

FOR FURTHER INFORMATION CONTACT:

General information: Jennifer Watts, (571) 665–6178, *Jennifer.Watts@FirstNet.gov.*

Media inquiries: Ryan Oremland, (571) 665–6186, *Ryan.Oremland@FirstNet.gov.*

SUPPLEMENTARY INFORMATION:

Background: The Middle-Class Tax Relief and Job Creation Act of 2012 (codified at 47 U.S.C. 1401 *et seq.*) (Act) established the FirstNet Authority as an independent authority within NTIA. The Act directs the FirstNet Authority to ensure the building, deployment, and operation of a nationwide interoperable public safety broadband network. The FirstNet Authority Board is responsible for making strategic decisions regarding the operations of the FirstNet Authority.

Matters to be Considered: The FirstNet Authority will post a detailed agenda for the Combined Board and Board Finance and Investment Committee Meeting on *FirstNet.gov* prior to the meeting. The agenda topics are subject to change. Please note that the subjects discussed by the Board and Board Finance and Investment Committee may involve commercial or financial information that is privileged or confidential, or other legal matters affecting the FirstNet Authority. As such, the Board may, by majority vote, close the meeting only for the time necessary to preserve the confidentiality of such information, pursuant to 47 U.S.C. 1424(e)(2).

Other Information: The public Combined Board and Board Finance and Investment Committee Meeting is accessible to people with disabilities. Individuals requiring accommodations are asked to notify Jennifer Watts at (571) 665–6178 or email: *Jennifer.Watts@FirstNet.gov* before the meeting.

Records: The FirstNet Authority maintains records of all Board proceedings. Minutes of the Combined Board and Board Finance and Investment Committee Meeting will be available on *FirstNet.gov.*

Dated: January 19, 2024.

Jennifer Watts,

Board Secretary, First Responder Network Authority.

[FR Doc. 2024–01405 Filed 1–24–24; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Order Renewing Temporary Denial of Export Privileges

Empresa de Transporte Aéreocargo del Sur, S.A., a/k/a Aerocargo del Sur Transportation Company, a/k/a EMTRASUR, Avenida Intercomunal, Edificio Sede, Sector 6.3, Maiquetia, Distrito Federal, Venezuela, Avenida Lecuna Torre Oeste Piso 49, Libertador Caracas, Venezuela

Pursuant to section 766.24 of the Export Administration Regulations, 15 CFR parts 730 through 774 (2023) (''EAR'' or ''the Regulations''),[1] I hereby grant the request of the Bureau of Industry and Security (''BIS''), U.S. Department of Commerce, through its Office of Export Enforcement (''OEE''), to renew the temporary denial order (''TDO'') issued in this matter on July 25, 2023. I find that renewal of this order is necessary in the public interest to prevent an imminent violation of the Regulations.

I. Procedural History

On August 2, 2022, I signed an order denying the export privileges of Venezuela-based cargo airline Empresa de Transporte Aéreocargo del Sur, S.A., a/k/a Aerocargo del Sur Transportation Company, a/k/a EMTRASUR (''EMTRASUR'') for a period of 180 days on the ground that issuance of the order was necessary in the public interest to prevent an imminent violation of the Regulations. The order was issued *ex parte* pursuant to section 766.24(a) of the Regulations and was effective upon issuance.[2] This temporary denial order was subsequently renewed in accordance with section 766.24(d) of the Regulations.[3] The renewal order issued on January 26, 2023 and was effective upon issuance.[4] A second renewal order issued on July 25, 2025 and was also effective upon issuance.[5]

On December 22, 2023, BIS, through OEE, submitted a written request for renewal of the TDO that issued on July 25, 2023. The written request was made more than 20 days before the TDO's scheduled expiration. A copy of the renewal request was sent to EMTRASUR in accordance with sections 766.5 and 766.24(d) of the Regulations. No opposition to the renewal of the TDO has been received.

II. Renewal of the TDO

A. Legal Standard

Pursuant to section 766.24, BIS may issue an order temporarily denying a respondent's export privileges upon a showing that the order is necessary in the public interest to prevent an ''imminent violation'' of the Regulations, or any order, license or authorization issued thereunder. 15 CFR 766.24(b)(1) and 766.24(d). ''A violation may be 'imminent' either in time or degree of likelihood.'' 15 CFR 766.24(b)(3). BIS may show ''either that a violation is about to occur, or that the general circumstances of the matter under investigation or case under criminal or administrative charges demonstrate a likelihood of future violations.'' *Id.* As to the likelihood of future violations, BIS may show that the violation under investigation or charge ''is significant, deliberate, covert and/or likely to occur again, rather than technical or negligent[.]'' *Id.* A ''lack of information establishing the precise time a violation may occur does not preclude a finding that a violation is

[1] On August 13, 2018, the President signed into law the John S. McCain National Defense Authorization Act for Fiscal Year 2019, which includes the Export Control Reform Act of 2018, 50 U.S.C. 4801–4852 (''ECRA''). While section 1766 of ECRA repeals the provisions of the Export Administration Act, 50 U.S.C. App. section 2401 *et seq.* (''EAA''), (except for three sections which are inapplicable here), section 1768 of ECRA provides, in pertinent part, that all orders, rules, regulations, and other forms of administrative action that were made or issued under the EAA, including as continued in effect pursuant to the International Emergency Economic Powers Act, 50 U.S.C. 1701 *et seq.* (''IEEPA''), and were in effect as of ECRA's date of enactment (August 13, 2018), shall continue in effect according to their terms until modified, superseded, set aside, or revoked through action undertaken pursuant to the authority provided under ECRA. Moreover, section 1761(a)(5) of ECRA authorizes the issuance of temporary denial orders. 50 U.S.C. 4820(a)(5).

[2] The TDO was published in the **Federal Register** on August 5, 2022. *See* 87 FR 47964 (August 5, 2022).

[3] Section 766.24(d) provides that BIS may seek renewal of a temporary denial order for additional 180-day renewal periods, if it believes that renewal is necessary in the public interest to prevent an imminent violation. Renewal requests are to be made in writing no later than 20 days before the scheduled expiration date of a temporary denial order.

[4] The January 26, 2023 renewal order was published in the **Federal Register** on January 31, 2023. *See* 88 FR 6231 (January 31, 2023).

[5] The July 25, 2023 renewal order was published in the **Federal Register** on July 28 2023. *See* 88 FR 48789 (July 28, 2023).

imminent, so long as there is sufficient reason to believe the likelihood of a violation.'' *Id.*

B. The TDO and BIS's Request for Renewal

OEE's request for renewal is based upon the facts underlying the issuance of the initial TDO and evidence developed during this investigation, which demonstrate continued disregard for U.S. export controls and the terms of a preexisting TDO. As noted in OEE's initial request for a temporary denial order, EMTRASUR is a subsidiary of Consorcio Venezolano de Industrias Aeronauticas Y Servicios Aereos, S.A., a/k/a CONVIASA (''CONVIASA''), a Venezuelan state-owned airline. On or about February 7, 2020, U.S. Department of the Treasury's Office of Foreign Assets Control (''OFAC'') added CONVIASA to the list of Specially Designated Nationals (''SDN'') pursuant to Executive Order (E.O.) 13884.[6]

The initial TDO, issued on August 2, 2022, was based on evidence that EMTRASUR engaged in conduct prohibited by a TDO that had been previously issued against Iranian airline Mahan Air a/k/a Mahan Airlines a/k/a Mahan Airways (''Mahan Air'') and the Regulations when EMTRASUR, through its parent company, acquired custody and/or control from Mahan Air of a U.S-origin Boeing 747 aircraft bearing manufacturer's serial number 23413 (''MSN 23413''), an item subject to the EAR and classified under ECCN 9A991, in or around October 2021.[7]

Moreover, the initial TDO, issued on August 2, 2022, was also based on evidence that EMTRASUR had continued to use MSN 23413 on flights into Iran and Russia in violation of General Prohibition 10, which (among other restrictions) prohibits the continued use of an item that was known to have been exported or reexported in violation of the EAR.[8] *See* General Prohibition 10 of the EAR at 15 CFR 736.2(b)(10). There are no license exceptions available for this General Prohibition.[9] As also noted in OEE's initial request, MSN 23413 was detained by Argentinian authorities on or about June 8, 2022, where it presently remains. On or about August 2, 2022, the United States Department of Justice transmitted a request to Argentinian authorities for the seizure of MSN 23413 following the unsealing of a seizure warrant in the U.S. District Court for the District of Columbia.

The January 26, 2023 and July 2023 renewal orders outlined evidence demonstrating that EMTRASUR's acquisition of MSN 23413 from Mahan Air was in violation of the TDO previously issued against Mahan Air as well as evidence that certain of MSN 23413's parts, including spare parts which appear to be U.S-origin, bear the markings and logos of Mahan and/or CONVIASA. Accordingly, any attempts by EMTRASUR to operate the aircraft or to return it to Venezuela, as well as any efforts EMTRASUR may take to maintain it, would violate General Prohibition 10.

Moreover, as detailed in the January 26, 2023 and July 25, 2023 renewal orders, BIS's investigation indicates that Venezuelan parties took affirmative actions to secure the release of the aircraft from its detention in Argentina, even after the issuance of the August 2, 2022, TDO against EMTRASUR. BIS also offered evidence that on May 3, 2023, United States District Judge Randolph D. Moss of the United States District Court for the District of Columbia issued a final order of forfeiture as to the aircraft, vesting all rights to MSN 23413 with the United States. *See United States* v. *Boeing 747–300 Aircraft,* No. 1:22–cv–3208, Dkt. 11 (D.D.C. May 3, 2023). Most recently, on or about January 4, 2024, a federal judge in Argentina issued an order for the aircraft at to be released to the United States Government.[10] Notwithstanding this order, however, the aircraft physically remains in Argentina and has not yet been recovered by the United States government.

Based upon the violations by EMTRASUR, its disregard for the Regulations and the previously issued TDO against Mahan Air, and the attempts by the Venezuelan government to reacquire control of MSN 23413, there are concerns of future violations of the EAR. These concerns are heightened because any subsequent actions taken with regard to MSN 23413 for or on behalf of EMTRASUR would violate the EAR, including, but not limited to, its refueling, maintenance, repair, or the provision of spare parts or services.

III. Findings

Under the applicable standard set forth in section 766.24 of the Regulations and my review of the entire record, I find that the evidence presented by BIS convincingly demonstrates that EMTRASUR has acted in violation of the Regulations and the TDO; that such violations have been significant, deliberate and covert; and that given the foregoing and the nature of the matters under investigation, there is a likelihood of imminent violations. Therefore, renewal of the TDO is necessary in the public interest to prevent imminent violation of the Regulations and to give notice to companies and individuals in the United States and abroad that they should avoid dealing with EMTRASUR in connection with export and reexport transactions involving items subject to the Regulations and in connection with any other activity subject to the Regulations.

IV. Order

It is therefore ordered: First, Empresa de Transporte Aéreocargo del Sur, S.A., a/k/a Aerocargo del Sur Transportation Company, a/k/a EMTRASUR, Avenida Intercomunal, Edificio Sede, Sector 6.3, Maiquetia, Distrito Federal, Venezuela, and Avenida Lecuna Torre Oeste Piso 49, Libertador, Caracas, Venezuela, and when acting for or on its behalf, any successors or assigns, agents, or employees may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the EAR, or in any other activity subject to the EAR including, but not limited to:

A. Applying for, obtaining, or using any license (except directly related to safety of flight), license exception, or export control document;

[6] *See https://home.treasury.gov/news/press-releases/sm903.*

[7] Mahan Air's status as a denied person was most recently renewed by BIS through a TDO issued on May 5, 2023. *See* 88 FR 30078 (May 10, 2023). The May 5, 2023 renewal order summarizes the initial TDO issued against Mahan in March 2008 and the other renewal orders issued prior to May 5, 2023. *See id.*

[8] Publicly available flight tracking information demonstrates, for instance, that EMTRASUR operated MSN 23413 on multiple flights between Caracas, Venezuela and Tehran, Iran between February 19, 2022 and May 25, 2022. In addition, EMTRASUR operated MSN 23413 on flights between Tehran, Iran and Moscow, Russia on May 24, 2022 and May 25, 2022.

[9] Section 736.2(b)(10) of the EAR provides: General Prohibition Ten—Proceeding with transactions with knowledge that a violation has occurred or is about to occur (Knowledge Violation to Occur). You may not sell, transfer, export, reexport, finance, order, buy, remove, conceal, store, use, loan, dispose of, transport, forward, or otherwise service, in whole or in part, any item subject to the EAR and exported or to be exported with knowledge that a violation of the Export Administration Regulations, the Export Administration Act or any order, license, License Exception, or other authorization issued thereunder has occurred, is about to occur, or is intended to occur in connection with the item. Nor may you rely upon any license or License Exception after notice to you of the suspension or revocation of that license or exception. There are no License Exceptions to this General Prohibition Ten in part 740 of the EAR.

[10] *https://www.msn.com/en-us/news/world/argentina-surrenders-emtrasur-747-aircraft-to-the-us/ar-AA1mE3uV.*

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the EAR except directly related to safety of flight and authorized by BIS pursuant to section 764.3(a)(2) of the Regulations, or engaging in any other activity subject to the EAR except directly related to safety of flight and authorized by BIS pursuant to section 764.3(a)(2) of the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the EAR, or from any other activity subject to the EAR except directly related to safety of flight and authorized by BIS pursuant to section 764.3(a)(2) of the Regulations.

Second, that no person may, directly or indirectly, do any of the following:

A. Export, reexport, or transfer (in-country) to or on behalf of EMTRASUR any item subject to the EAR except directly related to safety of flight and authorized by BIS pursuant to section 764.3(a)(2) of the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by EMTRASUR of the ownership, possession, or control of any item subject to the EAR that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby EMTRASUR acquires or attempts to acquire such ownership, possession or control except directly related to safety of flight and authorized by BIS pursuant to section 764.3(a)(2) of the Regulations;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from EMTRASUR of any item subject to the EAR that has been exported from the United States except directly related to safety of flight and authorized by BIS pursuant to section 764.3(a)(2) of the Regulations;

D. Obtain from EMTRASUR in the United States any item subject to the EAR with knowledge or reason to know that the item will be, or is intended to be, exported from the United States except directly related to safety of flight and authorized by BIS pursuant to section 764.3(a)(2) of the Regulations; or

E. Engage in any transaction to service any item subject to the EAR that has been or will be exported from the United States and which is owned, possessed or controlled by EMTRASUR, or service any item, of whatever origin, that is owned, possessed or controlled by EMTRASUR if such service involves the use of any item subject to the EAR that has been or will be exported from the United States except directly related to safety of flight and authorized by BIS pursuant to section 764.3(a)(2) of the Regulations. For purposes of this paragraph, servicing means installation, maintenance, repair, modification, or testing.

Third, that, after notice and opportunity for comment as provided in section 766.23 of the EAR, any other person, firm, corporation, or business organization related to EMTRASUR by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order.

In accordance with the provisions of sections 766.24(e) of the EAR, EMTRASUR may, at any time, appeal this Order by filing a full written statement in support of the appeal with the Office of the Administrative Law Judge, U.S. Coast Guard ALJ Docketing Center, 40 South Gay Street, Baltimore, Maryland 21202–4022.

In accordance with the provisions of section 766.24(d) of the EAR, BIS may seek renewal of this Order by filing a written request not later than 20 days before the expiration date. A renewal request may be opposed by EMTRASUR as provided in section 766.24(d), by filing a written submission with the Assistant Secretary of Commerce for Export Enforcement, which must be received not later than seven days before the expiration date of the Order.

A copy of this Order shall be provided to EMTRASUR and shall be published in the **Federal Register**.

This Order is effective immediately and shall remain in effect for 180 days.

Dated: January 21, 2024.

Matthew S. Axelrod,

Assistant Secretary of Commerce for Export Enforcement.

[FR Doc. 2024–01411 Filed 1–24–24; 8:45 am]

BILLING CODE 3510–DT–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–885]

Polyester Textured Yarn From India: Preliminary Results of Antidumping Duty Administrative Review; 2022

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that polyester textured yarn (yarn) from India was not sold in the United States at less than normal value (NV) during the period of review (POR) January 1, 2022, through December 31, 2022. We invite interested parties to comment on these preliminary results of review.

DATES: Applicable January 25, 2024.

FOR FURTHER INFORMATION CONTACT: Samantha Kinney, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–2285.

SUPPLEMENTARY INFORMATION:

Background

On January 10, 2020, Commerce published in the **Federal Register** the antidumping duty (AD) order on polyester textured yarn from India.[1] On January 3, 2023, Commerce published in the **Federal Register** a notice of opportunity to request an administrative review of the *Order*.[2] On March 14, 2023, based on a timely request for review, in accordance with 19 CFR 351.221(c)(1)(i), Commerce initiated an AD administrative review of the *Order,* covering one producer/exporter, Reliance Industries Limited (Reliance).[3]

Pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), on September 11, 2023, Commerce extended the deadline for the preliminary results of this review until January 31, 2024.[4] For a complete description of the events that followed the initiation of this review, *see* the Preliminary Decision Memorandum.[5]

Scope of the Order

The merchandise covered by the *Order* is polyester textured yarn from

[1] *See Polyester Textured Yarn from India and the People's Republic of China: Amended Final Antidumping Duty Determination for India and Antidumping Duty Orders,* 85 FR 1298 (January 10, 2020) (*Order*).

[2] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review and Join Annual Inquiry Service List,* 88 FR 45 (January 3, 2023).

[3] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 88 FR 15642, 15649 (March 14, 2023). We have preliminarily determined that Reliance and its affiliate, Alok Industries Limited (AIL), should be collapsed and treated as a single entity, Reliance/AIL. *See* Memorandum, ''Decision Memorandum for Preliminary Results of Antidumping Duty Administrative Review: Polyester Textured Yarn from India; 2022,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum), at the section entitled, ''Affiliation and Single Entity Treatment.''

[4] *See* Memorandum, ''Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review, dated September 11, 2023.

[5] *See* Preliminary Decision Memorandum.

India. For a complete description of the scope of the *Order, see* the Preliminary Decision Memorandum.

Methodology

Commerce is conducting this administrative review in accordance with section 751(a) of the Act. Export price is calculated in accordance with section 772 of the Act. Normal value is calculated in accordance with section 773 of the Act.

For a full description of the methodology underlying these preliminary results, *see* the Preliminary Decision Memorandum. A list of the topics discussed in the Preliminary Decision Memorandum is attached as an appendix to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Preliminary Results of Review

We preliminarily determine that the following estimated weighted-average dumping margin exists for the period January 1, 2022, through December 31, 2022:

Exporter/producer	Weighted-average dumping margin (percent)
Reliance Industries Limited; Alok Industries Limited.	0.00 (*de minimis*).

Disclosure and Public Comment

Commerce intends to disclose the calculations and analysis performed to interested parties for these preliminary results within five days of any public announcement or if there is no public announcement, within five days after the date of publication of this notice in the **Federal Register**.[6] Interested parties may submit case briefs to Commerce no later than 30 days after the date of publication of this notice.[7] Rebuttal briefs, limited to issues raised in the case briefs, may be filed no later than five days after the deadline for filing case briefs.[8] Interested parties who submit case briefs or rebuttal briefs in this proceeding must submit: (1) a table of contents listing each issue; and (2) a table of authorities.[9]

As provided under 19 CFR 351.309(c)(2) and (d)(2), in prior proceedings we have encouraged interested parties to provide an executive summary of their brief that should be limited to five pages total, including footnotes. In this review, we instead request that interested parties provide at the beginning of their briefs a public, executive summary for each issue raised in their briefs.[10] Further, we request that interested parties limit their executive summary of each issue to no more than 450 words, not including citations. We intend to use the executive summaries as the basis of the comment summaries included in the issues and decision memorandum that will accompany the final results in this administrative review. We request that interested parties include footnotes for relevant citations in the executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).[11]

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically via ACCESS. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case briefs. An electronically filed hearing request must be received successfully in its entirety by Commerce's electronic records system, ACCESS, by 5:00 p.m. Eastern Time within 30 days after the date of publication of this notice. If a request for a hearing is made, Commerce intends to hold a hearing at a time and date to be determined.[12] Parties should confirm the date, time and location of the hearing two days before the scheduled date.

Assessment Rates

Pursuant to section 751(a)(2)(A) of the Act, upon completion of the final results of this administrative review, Commerce shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise covered by this review.[13] If the weighted-average dumping margin for Reliance/AIL is not zero or *de minimis* (*i.e.,* less than 0.5 percent) in the final results of this review, Commerce intends to calculate an importer-specific *ad valorem* antidumping duty assessment rate based on the ratio of the total amount of dumping calculated for each importer's examined sales to the total entered value of those sales, in accordance with 19 CFR 351.212(b)(1).[14] We intend to instruct CBP to assess antidumping duties on all appropriate entries covered by this review when the importer-specific assessment rate calculated in the final results of this review is above *de minimis* (*i.e.,* 0.50 percent). If the weighted-average dumping margin for Reliance/AIL or an importer-specific *ad valorem* assessment rate is zero or *de minimis* in the final results of review, we intend to instruct CBP to liquidate entries without regard to antidumping duties.[15] The final results of this administrative review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated duties, where applicable.[16]

Where we do not have entered values for all U.S. sales to a particular importer, we will calculate a per-unit assessment rate by aggregating the antidumping duties due for all U.S. sales to that importer and dividing this amount by the total quantity sold to that importer.[17]

For entries of subject merchandise during the POR produced by Reliance/AIL for which it did not know that the merchandise was destined for the United States, we intend to instruct CBP to liquidate unreviewed entries at the all-others rate (*i.e.,* 13.50) in the less-than-fair-value (LTFV) investigation [18] if there is no rate for the intermediate company(ies) involved in the transaction.[19]

[6] *See* 19 CFR 351.224(b).

[7] *See* 19 CFR 351.309(c); *see also* 19 CFR 351.303 (for general filing requirements).

[8] *See* 19 CFR 351.309(d); *see also Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings,* 88 FR 67069, 67077 (September 29, 2023) (*APO and Service Final Rule*).

[9] *See* 19 CFR 351.309(c)(2) and (d)(2).

[10] We use the term ''issue'' here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

[11] *See APO and Service Final Rule,* 88 FR at 67069.

[12] *See* 19 CFR 351.310(d).

[13] *See* 19 CFR 351.212(b).

[14] *See Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings; Final Modification,* 77 FR 8101, 8103 (February 14, 2012).

[15] *Id.,* 77 FR at 8102–03; *see also* 19 CFR 351.106(c)(2).

[16] *See* section 751(a)(2)(C) of the Act.

[17] *See* 19 CFR 351.212(b)(1).

[18] *See Order,* 85 FR at 1300.

[19] For a full discussion of this practice, *see Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this administrative review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication in the **Federal Register** of the notice of final results of administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(2)(C) of the Act: (1) the cash deposit rate for Reliance/AIL will be equal to the weighted-average dumping margin established in the final results of this administrative 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 merchandise exported by a company not covered in this review but covered in a prior segment of the proceeding, the cash deposit rate will continue to be the company-specific cash deposit rate published in the completed segment for the most recent period; (3) if the exporter is not a firm covered in this review, or a previous segment, but the producer is, then the cash deposit rate will be the rate established in the completed segment for the most recent period for the producer of the merchandise; and (4) the cash deposit rate for all other producers or exporters will continue to be 13.50 percent, the all-others rate established in the LTFV investigation.[20] These cash deposit requirements, when imposed, shall remain in effect until further notice.

Final Results of Review

Unless the deadline is otherwise extended, Commerce intends to issue the final results of this administrative review, including the results of its analysis of issues raised by interested parties in any case and rebuttal briefs, within 120 days after the date of publication of these preliminary results in the **Federal Register**.[21]

[20] *See Order,* 85 FR at 1300.

[21] *See* section 751(a)(3)(A) of the Act; *see also* 19 CFR 351.213(h).

Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping and/or countervailing duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping and/or countervailing duties occurred and the subsequent assessment of doubled antidumping duties, and/or an increase in the amount of antidumping duties by the amount of the countervailing duties.

Notification to Interested Parties

We are issuing and publishing these preliminary results in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.221(b)(4).

Dated: January 19, 2024.

Abdelali Elouaradia,

Deputy Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

[FR Doc. 2024–01466 Filed 1–24–24; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–163]

Certain Glass Wine Bottles From the People's Republic of China: Initiation of Countervailing Duty Investigation

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: Applicable January 18, 2024.

FOR FURTHER INFORMATION CONTACT: Preston Cox, Scarlet Jaldin, or Theodora Mattei, AD/CVD Operations Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–5041, 202–482–4275, or (202) 482–4834, respectively.

SUPPLEMENTARY INFORMATION:

The Petition

On December 29, 2023, the U.S. Department of Commerce (Commerce) received a countervailing duty (CVD) petition concerning imports of certain glass wine bottles (wine bottles) from the People's Republic of China (China) filed in proper form on behalf of the U.S. Glass Producers Coalition (the petitioner).[1] The CVD Petition was accompanied by antidumping duty (AD) petitions concerning imports of wine bottles from Chile, China, and Mexico.[2]

Between January 3 and 11, 2024, Commerce requested supplemental information pertaining to certain aspects of the Petition.[3] The petitioner filed responses to the supplemental questionnaires between January 8 and 12, 2024.[4]

In accordance with section 702(b)(1) of the Tariff Act of 1930, as amended (the Act), the petitioner alleges that the Government of China (GOC) is providing countervailable subsidies, within the meaning of sections 701 and 771(5) of the Act, to producers of wine bottles from China, and that such imports are materially injuring, or threatening material injury to, the domestic industry producing wine bottles in the United States. Consistent with section 702(b)(1) of the Act and 19 CFR 351.202(b), for the alleged programs on which we are initiating a CVD investigation, the Petition is supported by information reasonably available to the petitioner.

Commerce finds that the petitioner filed the Petition on behalf of the domestic industry, because the petitioner is an interested party, as

[1] *See* Petitioner's Letter, ''Certain Glass Wine Bottles from the People's Republic of China, the United Mexican States, and Chile: Petitions for the Imposition of Antidumping and Countervailing Duties,'' dated December 29, 2023 (the Petition). The members of the U.S. Glass Producers Coalition are Ardagh Glass Inc. (Ardagh) and the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union (USW).

[2] *Id.*

[3] *See* Commerce's Letter, ''Supplemental Questions,'' dated January 3, 2024 (General Issues Questionnaire); *see also* Commerce's Letter, ''Supplemental Questions,'' dated January 3, 2024; and Memorandum, ''Phone Call,'' dated January 10, 2024 (January 10 Memorandum); and Memorandum, ''Phone Call,'' dated January 11, 2024.

[4] *See* Petitioner's Letters, ''Response to Supplemental Questions Regarding Common Issues and Injury Petition Volume I of the Petitions,'' dated January 8, 2024 (First General Issues Supplement); ''Response to Supplemental Questions Regarding Volume III of the Petitions,'' dated January 9, 2024; and ''Response to Second Supplemental Scope Questions Regarding Common Issues and Injury Petition Volume I of the Petition,'' dated January 12, 2024 (Second General Issues Supplement).

defined in section 771(9)(F) of the Act.[5] Commerce also finds that the petitioner demonstrated sufficient industry support with respect to the initiation of the requested CVD investigation.[6]

Period of Investigation

Because the Petition was filed on December 29, 2023, the period of investigation (POI) is January 1, 2022, through December 31, 2022.[7]

Scope of the Investigation

The products covered by this investigation are wine bottles from China. For a full description of the scope of this investigation, *see* the appendix to this notice.

Comments on Scope of the Investigation

On January 3 and 10, 2024, Commerce requested information and clarification from the petitioner regarding the proposed scope to ensure that the scope language in the Petition is an accurate reflection of the products for which the domestic industry is seeking relief.[8] On January 8 and 12, 2024, the petitioner provided clarifications and revised the scope.[9] The description of merchandise covered by this investigation, as described in the appendix to this notice, reflects these clarifications.

As discussed in the *Preamble* to Commerce's regulations, we are setting aside a period for parties to raise issues regarding product coverage (*i.e.,* scope).[10] Commerce will consider all scope comments received from interested parties and, if necessary, will consult with interested parties prior to the issuance of the preliminary determination. If scope comments include factual information,[11] all such factual information should be limited to public information. To facilitate preparation of its questionnaires, Commerce requests that scope comments be submitted by 5 p.m. Eastern Time (ET) on February 7, 2024, which is 20 calendar days from the signature date of this notice. Any rebuttal comments, which may include factual information, must be filed by 5 p.m. ET on February 20, 2024, which is the next business day after 10 calendar days from the initial comment deadline.[12]

Commerce requests that any factual information that the parties consider relevant to the scope of the investigation be submitted during that period. However, if a party subsequently finds that additional factual information pertaining to the scope of the investigation may be relevant, the party may contact Commerce and request permission to submit the additional information. All scope comments must also be filed on the record of each of the concurrent AD investigations.

Filing Requirements

All submissions to Commerce must be filed electronically via Enforcement and Compliance's Antidumping Duty and Countervailing Duty Centralized Electronic Service System (ACCESS), unless an exception applies.[13] An electronically filed document must be received successfully in its entirety by the time and date it is due.

Consultations

Pursuant to sections 702(b)(4)(A)(i) and (ii) of the Act, Commerce notified the GOC of the receipt of the Petition and provided it an opportunity for consultations with respect to the Petition.[14] The GOC requested a consultation,[15] which was held via video conference on January 11, 2023.[16]

Determination of Industry Support for the Petition

Section 702(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 702(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) at least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 702(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, Commerce shall: (i) poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the ''industry.''

Section 771(4)(A) of the Act defines the ''industry'' as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs Commerce to look to producers and workers who produce the domestic like product. The U.S. International Trade Commission (ITC), which is responsible for determining whether ''the domestic industry'' has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both Commerce and the ITC must apply the same statutory definition regarding the domestic like product,[17] they do so for different purposes and pursuant to a separate and distinct authority. In addition, Commerce's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.[18]

Section 771(10) of the Act defines the domestic like product as ''a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.'' Thus, the reference point from which the domestic like product analysis begins is ''the article subject to an investigation'' (*i.e.,* the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

[5] The members of the U.S. Glass Producers Coalition (Ardagh and the USW) are interested parties as defined under section 771(9)(C) and (D) of the Act, respectively.

[6] *See* section on ''Determination of Industry Support for the Petition,'' *infra.*

[7] *See* 19 CFR 351.204(b)(2).

[8] *See* General Issues Questionnaire; *see also* January 10 Memorandum.

[9] *See* First General Issues Supplement at 2–4 and Exhibits I-Supp-4 and I-Supp-5; *see also* Second General Issues Supplement at 1–3.

[10] *See Antidumping Duties; Countervailing Duties,* 62 FR 27296, 27323 (May 19, 1997) (*Preamble*); *see also* 19 CFR 351.312.

[11] *See* 19 CFR 351.102(b)(21) (defining ''factual information'').

[12] The deadline for rebuttal comments falls on February 17, 2024, which is a Saturday. In accordance with 19 CFR 351.303(b)(1), Commerce will accept rebuttal comments filed by 5:00 p.m. ET on February 20, 2024. *Id.* (''For both electronically filed and manually filed documents, if the applicable due date falls on a non-business day, the Secretary will accept documents that are filed on the next business day.'').

[13] *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011); *see also Enforcement and Compliance; Change of Electronic Filing System Name,* 79 FR 69046 (November 20, 2014), for details of Commerce's electronic filing requirements, effective August 5, 2011. Information on using ACCESS can be found at *https://access.trade.gov/help.aspx* and a handbook can be found at *https://access.trade.gov/help/Handbook_on_Electronic_Filing_Procedures.pdf.*

[14] *See* Commerce's Letter, ''Countervailing Duty Petition on Glass Wine Bottles from the People's Republic of China,'' dated December 29, 2023.

[15] *See* GOC's Letter, ''Request for Consultations to Discuss the Countervailing Duty Petition,'' dated January 4, 2024.

[16] *See* Memorandum, ''Ex-Parte Memorandum—Consultations with the Government of China on the Countervailing Duty Petition on Certain Glass Wine Bottles from China,'' dated January 17, 2024.

[17] *See* section 771(10) of the Act.

[18] *See USEC, Inc.* v. *United States,* 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd.* v. *United States,* 688 F. Supp. 639, 644 (CIT 1988), *aff'd Algoma Steel Corp., Ltd.* v. *United States,* 865 F.2d 240 (Fed. Cir. 1989)).

With regard to the domestic like product, the petitioner does not offer a definition of the domestic like product distinct from the scope of the investigation.[19] Based on our analysis of the information submitted on the record, we have determined that wine bottles, as defined in the scope, constitute a single domestic like product, and we have analyzed industry support in terms of that domestic like product.[20]

In determining whether the petitioner has standing under section 702(c)(4)(A) of the Act, we considered the industry support data contained in the Petition with reference to the domestic like product as defined in the ''Scope of the Investigation,'' in the appendix to this notice. To establish industry support, the petitioner provided the 2022 production of the domestic like product for the U.S. producers that support the Petition and compared this to the estimated total 2022 production of the domestic like product for the entire domestic industry.[21] We relied on the data provided by the petitioner for purposes of measuring industry support.[22]

Our review of the data provided in the Petition, the First General Issues Supplement, the Second General Issues Supplement, and other information readily available to Commerce indicates that the petitioner has established industry support for the Petition.[23] First, the Petition established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, Commerce is not required to take further action in order to evaluate industry support (*e.g.,* polling).[24] Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petition account for at least 25 percent of the total production of the domestic like product.[25] Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petition.[26] Accordingly, Commerce determines that the Petition was filed on behalf of the domestic industry within the meaning of section 702(b)(1) of the Act.[27]

Injury Test

Because China is a ''Subsidies Agreement Country'' within the meaning of section 701(b) of the Act, section 701(a)(2) of the Act applies to this investigation. Accordingly, the ITC must determine whether imports of the subject merchandise from materially injure, or threaten material injury to, a U.S. industry.

Allegations and Evidence of Material Injury and Causation

The petitioner alleges that imports of the subject merchandise are benefiting from countervailable subsidies and that such imports are causing, or threaten to cause, material injury to the U.S. industry producing the domestic like product. In addition, the petitioner alleges that subject imports from China exceed the negligibility threshold provided for under section 771(24)(A) of the Act.[28]

The petitioner contends that the industry's injured condition is illustrated by the significant volume and market share of subject imports; underselling and price depression and/or suppression; lost sales and revenues; negative impact on the domestic industry's production and shipments; layoffs; and declining financial performance.[29] We assessed the allegations and supporting evidence regarding material injury, threat of material injury, causation, as well as negligibility, and we have determined that these allegations are properly supported by adequate evidence, and meet the statutory requirements for initiation.[30]

Initiation of CVD Investigation

Based upon the examination of the Petition and supplemental responses, we find that they meet the requirements of section 702 of the Act. Therefore, we are initiating a CVD investigation to determine whether imports of wine bottles from China benefit from countervailable subsidies conferred by the GOC. Based on our review of the Petition, we find that there is sufficient information to initiate a CVD investigation on 37 of 38 programs alleged by the petitioner. For a full discussion of the basis for our decision to initiate an investigation of each program, *see* the China CVD Initiation Checklist. In accordance with section 703(b)(1) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determination no later than 65 days after the date of this initiation.

Respondent Selection

The petitioner identified 36 companies in China as producers and/or exporters of wine bottles.[31] Commerce intends to follow its standard practice in CVD investigations and calculate company-specific subsidy rates in this investigation. In the event that Commerce determines that the number of companies is large, and it cannot individually examine each company based upon Commerce's resources, Commerce intends to select mandatory respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports of wine bottles during the POI under the appropriate Harmonized Tariff Schedule of the United States (HTSUS) subheading(s) listed in the ''Scope of the Investigation,'' in the appendix.

On January 16, 2024, Commerce released CBP data on U.S. imports of wine bottles from China, under administrative protective order (APO), to all parties with access to information protected by APO, and indicated that

[19] *See* Petition at Volume I (pages 12–15); *see also* Second General Issues Supplement at 3.

[20] For a discussion of the domestic like product analysis as applied to this case and information regarding industry support, *see* Countervailing Duty Investigation Initiation Checklist: Certain Glass Wine Bottles from the People's Republic of China, dated concurrently with this notice (China CVD Initiation Checklist), at Attachment II, Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering Certain Glass Wine Bottles from Chile, the People's Republic of China, and Mexico (Attachment II). This checklist is on file electronically via ACCESS.

[21] *See* Petition at Volume I (pages 2–3 and Exhibits I–3 and I–4); *see also* First General Issues Supplement at 5–6 and Exhibits I-Supp-6 through I-Supp-9.

[22] *See* Petition at Volume I (pages 2–3 and Exhibits I–3 and I–4); *see also* First General Issues Supplement at 5–6 and Exhibits I-Supp-6 through I-Supp-9; and Second General Issues Supplement at 3–4. For further discussion, *see* Attachment II of the China CVD Initiation Checklist.

[23] *See* Petition at Volume I (pages 2–3 and Exhibits I–3 and I–4); *see also* First General Issues Supplement at 5–6 and Exhibits I-Supp-6 through I-Supp-9; and Second General Issues Supplement at 3–4. For further discussion, *see* Attachment II of the China CVD Initiation Checklist.

[24] *See* Attachment II of the China CVD Initiation Checklist; *see also* section 702(c)(4)(D) of the Act.

[25] *See* Attachment II of the China CVD Initiation Checklist.

[26] *Id.*

[27] *Id.*

[28] *See* Petition at Volume I (pages 20–21 and Exhibit I–22).

[29] *Id.* (pages 15–30 and Exhibits I–14 and I–19 through I–29); *see also* First General Issues Supplement at 6 and Exhibit I-Supp-10.

[30] *See* China CVD Initiation Checklist at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping and Countervailing Duty Petitions Covering Certain Glass Wine Bottles from Chile, the People's Republic of China, and Mexico.

[31] *See* Petition at Volume I (page 11 and Exhibit I–11); *see also* First General Issues Supplement at 1 and Exhibit I-Supp-3.

interested parties wishing to comment on the CBP data and/or respondent selection must do so within three business days after the publication date of the notice of initiation of this investigation.[32] Comments must be filed electronically using ACCESS. An electronically filed document must be received successfully in its entirety via ACCESS by 5 p.m. ET on the specified deadline. Commerce will not accept rebuttal comments regarding the CBP data or respondent selection.

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305(b). Instructions for filing such applications may be found on Commerce's website at *https://www.trade.gov/administrative-protective-orders.*

Distribution of Copies of the Petition

In accordance with section 702(b)(4)(A) of the Act and 19 CFR 351.202(f), a copy of the public version of the Petition has been provided to the GOC via ACCESS. To the extent practicable, Commerce will attempt to provide a copy of the public version of the Petition to each exporter named in the Petition, as provided under 19 CFR 351.203(c)(2).

ITC Notification

Commerce will notify the ITC of its initiation, as required by section 702(d) of the Act.

Preliminary Determination by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the Petition was filed, whether there is a reasonable indication that imports of wine bottles from China are materially injuring, or threatening material injury to, a U.S. industry.[33] A negative ITC determination will result in the investigation being terminated.[34] Otherwise, this CVD investigation will proceed according to statutory and regulatory time limits.

Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by Commerce; and (v) evidence other than factual information described in (i)-(iv). Section 351.301(b) of Commerce's regulations requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted [35] and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct.[36] Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Interested parties should review the regulations prior to submitting factual information in this investigation.

Extensions of Time Limits

Parties may request an extension of time limits before the expiration of a time limit established under 19 CFR 351.301, or as otherwise specified by Commerce. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under 19 CFR 351.301.[37] For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10 a.m. ET on the due date. Under certain circumstances, Commerce may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, Commerce will inform parties in a letter or memorandum of the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, standalone submission; under limited circumstances will we grant untimely filed requests for the extension of time limits, where we determine, based on 19 CFR 351.302, that extraordinary circumstances exist. Parties should review Commerce's regulations concerning the extension of time limits and the *Time Limits Final Rule* prior to submitting factual information in this investigation.[38]

Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.[39] Parties must use the certification formats provided in 19 CFR 351.303(g).[40] Commerce intends to reject factual submissions if the submitting party does not comply with the applicable certification requirements.

Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. Parties wishing to participate in this investigation should ensure that they meet the requirements of 19 CFR 351.103(d) (*e.g.,* by filing the required letters of appearance). Note that Commerce has modified certain of its requirements for serving documents containing business proprietary information.[41]

This notice is issued and published pursuant to sections 702 and 777(i) of the Act, and 19 CFR 351.203(c).

Dated: January 18, 2024.

Abdelali Elouaradia,

Deputy Assistant Secretary for Enforcement and Compliance.

Appendix

Scope of the Investigation

The merchandise covered by the investigation is certain narrow neck glass bottles, with a nominal capacity of 740 milliliters (25.02 ounces) to 760 milliliters (25.70 ounces); a nominal total height between 24.8 centimeters (9.75 inches) to 35.6 centimeters (14 inches); a nominal base diameter between 4.6 centimeters (1.8 inches) to 11.4 centimeters (4.5 inches); and a mouth with an outer diameter of between 25 millimeters (.98 inches) to 37.9 millimeters (1.5 inches); frequently referred to as a ''wine bottle.'' In scope merchandise may include but is not limited to the following shapes: Bordeaux (also known as ''Claret''), Burgundy, Hock, Champagne, Sparkling, Port, Provence, or Alsace (also known as ''Germanic''). In scope glass bottles generally have an approximately round base and have shapes including but not limited to, straight-sided, a tapered slope from shoulder (*i.e.,* the sloping part of the bottle between the neck and the body) to base, or a long neck

[32] *See* Memorandum, ''Release of U.S. Customs and Border Protection Entry Data,'' dated January 16, 2024.

[33] *See* section 703(a)(1) of the Act.

[34] *Id.*

[35] *See* 19 CFR 351.301(b).

[36] *See* 19 CFR 351.301(b)(2).

[37] *See* 19 CFR 351.302.

[38] *See* 19 CFR 301; *see also Extension of Time Limits; Final Rule,* 78 FR 57790 (September 20, 2013) (*Time Limits Final Rule*), available at *https://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm.*

[39] *See* section 782(b) of the Act.

[40] *See Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings,* 78 FR 42678 (July 17, 2013) (*Final Rule*); *see also* frequently asked questions regarding the *Final Rule,* available at *https://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.*

[41] *See Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings,* 88 FR 67069 (September 29, 2023).

with sloping shoulders to a wider base. The scope includes glass bottles, whether or not clear, whether or not colored, with or without a punt (*i.e.,* an indentation on the underside of the bottle), and with or without design or functional enhancements (including, but not limited to, embossing, labeling, or etching). In scope merchandise is made of non-''free blown'' glass, *i.e.,* in scope merchandise is produced with the use of a mold and is distinguished by mold seams, joint marks, or parting lines. In scope merchandise is unfilled and may be imported with or without a closure, including a cork, stelvin (screw cap), crown cap, or wire cage and cork closure.

Excluded from the scope of the investigation are: (1) glass containers made of borosilicate glass, meeting United States Pharmacopeia requirements for Type 1 pharmaceutical containers; and (2) glass containers without a ''finish'' (*i.e.,* the section of a container at the opening including the lip and ring or collar, threaded or otherwise compatible with a type of closure, including but not limited to a cork, stelvin (screw cap), crown cap, or wire cage and cork closure).

Glass bottles subject to the investigation are specified within the Harmonized Tariff Schedule of the United States (HTSUS) under subheading 7010.90.5019. The HTSUS subheading is provided for convenience and customs purposes only. The written description of the scope of the investigation is dispositive.

[FR Doc. 2024–01397 Filed 1–24–24; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–044]

1,1,1,2-Tetrafluoroethane (R–134a) From the People's Republic of China: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review; 2022–2023

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that certain companies subject to the administrative review of the antidumping duty (AD) order on 1,1,1,2-Tetrafluoroethane (R–134a) from the People's Republic of China (China) remain part of the China-wide entity during the period of review (POR) April 1, 2022, through March 31, 2023. In addition, Commerce is rescinding this review in part with respect to certain companies that did not ship subject merchandise during the POR. Interested parties are invited to comment on these preliminary results of review.

DATES: Applicable January 25, 2024.

FOR FURTHER INFORMATION CONTACT: John Conniff, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–1009.

SUPPLEMENTARY INFORMATION:

Background

On April 19, 2017, Commerce published in the **Federal Register** the AD order on R–134a from China.[1] On April 4, 2023, Commerce published in the **Federal Register** a notice of opportunity to request an administrative review of the *Order.*[2] On April 28, 2023, American HFC Coalition and its individual members (the petitioner) submitted a timely request that Commerce conduct an administrative review.[3] On June 12, 2023, Commerce published in the **Federal Register** a notice of initiation of administrative review with respect to imports of R–134a from China with respect to 28 companies/company groupings for the POR.[4]

On July 20, 2023, we placed on the record U.S. Customs and Border Protection (CBP) data for entries of R–134a from China, and invited interested parties to comment.[5] On August 24, 2023, the petitioner submitted comments requesting that Commerce follow established practice and select the two largest exporters for review.[6] On December 14, 2023, Commerce notified interested parties of its intent to rescind the review for companies with an existing separate rate that did not have any suspended entries during the POR.[7] Pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), Commerce extended the deadline for the preliminary results until January 31, 2024.[8]

[1] *See 1,1,1,2-Tetrafluoroethane (R–134a) from the People's Republic of China: Antidumping Duty Order,* 82 FR 18422 (April 19, 2017) (*Order*).

[2] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review and Join Annual Inquiry Service List,* 88 FR 19916 (April 4, 2023).

[3] *See* Petitioner's Letter, ''Request for Administrative Review,'' dated April 28, 2023.

[4] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 88 FR 38021 (June 12, 2023).

[5] *See* Memorandum, ''Release of Customs and Border Protection Data,'' dated July 20, 2023.

[6] *See* Petitioner's Letter, ''HFC Coalition's Comments on CBP Data and Respondent Selection,'' dated August 24, 2023.

[7] *See* Memorandum, ''Notice of Intent to Rescind Review, In Part,'' dated December 14, 2023 (Intent to Rescind Memorandum).

[8] *See* Memorandum, ''Extension of Deadline for the Preliminary Results of Antidumping Duty Administrative Review,'' dated December 15, 2023.

Scope of the Order [9]

The merchandise covered by the *Order* is 1,1,1,2-Tetrafluoroethane, R–134a, or its chemical equivalent, regardless of form, type, or purity level. The chemical formula for 1,1,1,2-Tetrafluoroethane is CF3–CH2 F, and the Chemical Abstracts Service (CAS) registry number is CAS 811–97–2.[10]

Merchandise subject to the *Order* is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) at subheading 2903.45.1000. Although the HTSUS subheading and CAS registry number are provided for convenience and customs purposes, the written description of the scope is dispositive.

Rescission of Administrative Review, in Part

Pursuant to 19 CFR 351.213(d)(3), it is Commerce's practice to rescind an administrative review of an antidumping duty order where it concludes that there were no suspended entries of subject merchandise during the POR.[11] Normally, upon completion of an administrative review, the suspended entries are liquidated at the antidumping duty assessment rate for the review period.[12] Therefore, for an administrative review to be conducted, there must be a reviewable, suspended entry that Commerce can instruct CBP to liquidate at the calculated antidumping duty assessment rate for the review period.[13] As noted above,

[9] *See Order.*

[10] 1,1,1,2-Tetrafluoroethane is sold under a number of trade names including Klea 134a and Zephex 134a (Mexichem Fluor); Genetron 134a (Honeywell); FreonTM 134a, Suva 134a, Dymel 134a, and Dymel P134a (Chemours); Solkane 134a (Solvay); and Forane 134a (Arkema). Generically, 1,1,1,2-Tetrafluoroethane has been sold as Fluorocarbon 134a, R–134a, HFC–134a, HF A–134a, Refrigerant 134a, and UN3159.

[11] *See, e.g., Certain Carbon and Alloy Steel Cut-to Length Plate from the Federal Republic of Germany: Recission of Antidumping Administrative Review; 2020–2021,* 88 FR 4157 (January 24, 2023).

[12] *See* 19 CFR 351.212(b)(1).

[13] *See, e.g., Shanghai Sunbeauty Trading Co.* v. *United States,* 380 F. Supp. 3d 1328, 1335–36 (CIT 2019), at 12 (referring to section 751(a) of the Act, the CIT held: ''While the statute does not explicitly require that an entry be suspended as a prerequisite for establishing entitlement to a review, it does explicitly state the determined rate will be used as the liquidation rate for the reviewed entries. This result can only obtain if the liquidation of entries has been suspended. . . . ;'' *see also Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2018–2019,* 86 FR 36102, and accompanying Issues and Decision Memorandum at Comment 4; and *Solid Fertilizer Grade Ammonium Nitrate from the Russian Federation: Notice of Rescission of Antidumping Duty Administrative Review,* 77 FR 65532 (October 29, 2012) (noting that ''for an administrative review to be conducted, there must

Continued

Commerce notified all interested parties of its intent to rescind the instant review regarding companies with an existing separate rate listed in Appendix I because there were no reviewable, suspended entries of subject merchandise from these companies during the POR and invited interested parties to comment.[14] No interested party submitted comments to Commerce. Accordingly, in the absence of any suspended entries of subject merchandise from these companies during the POR, we are rescinding this administrative review for the companies listed in Appendix I in accordance with 19 CFR 351.213(d)(3).

Preliminary Results of Review

Commerce considers all other companies for which a review was requested (*see* Appendix II), and which did not demonstrate separate rate eligibility, to be part of the China-wide entity. Commerce no longer considers the China-wide entity as an exporter conditionally subject to administrative review.[15] Accordingly, the China-wide entity will not be under review unless Commerce specifically receives a request for, or self-initiates, a review of the entity. In this administrative review, no party requested a review of the China-wide entity. Moreover, we have not self-initiated a review of the China-wide entity. Because no review of the China-wide entity is being conducted, the China-wide entity's entries are not subject to the review, and the weighted-average dumping margin for the China-wide entity rate (*i.e.,* 167.02 percent) is not subject to change.[16]

Public Comment

Pursuant to 19 CFR 351.309(c), interested parties may submit case briefs to Commerce no later than 30 days after the date of publication of this notice. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.[17] Interested parties who submit case briefs or rebuttal briefs in this proceeding must submit: (1) a table of contents listing each issue; and (2) a table of authorities.[18]

As provided under 19 CFR 351.309(c)(2) and (d)(2), in prior proceedings we have encouraged interested parties to provide an executive summary of their brief that should be limited to five pages total, including footnotes. In this review, we instead request that interested parties provide at the beginning of their briefs a public, executive summary for each issue raised in their briefs.[19] Further, we request that interested parties limit their executive summary of each issue to no more than 450 words, not including citations. We intend to use the executive summaries as the basis of the comment summaries included in the issues and decision memorandum that will accompany the final results in this administrative review. We request that interested parties include footnotes for relevant citations in the executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).[20]

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically via Enforcement and Compliance's Antidumping and CVD Centralized Electronic Service System (ACCESS). Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case briefs. An electronically filed hearing request must be received successfully in its entirety by Commerce's electronic records system, ACCESS, by 5:00 p.m. Eastern Time within 30 days after the date of publication of this notice.

Final Results of Review

Unless extended, we intend to issue the final results of this administrative review, which will include the results of our analysis of all issues raised in the case and rebuttal briefs, within 120 days of publication of these preliminary results in the **Federal Register**.[21]

Assessment

For the companies listed in Appendix I for which we are rescinding the review, Commerce will instruct CBP to assess antidumping duties on all appropriate entries. Antidumping duties shall be assessed at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of this rescission notice in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

For the companies listed in Appendix II, upon issuance of the final results of this review, Commerce will determine, and CBP shall assess, antidumping duties on all appropriate entries of subject merchandise covered by this review.[22] We intend to instruct CBP to liquidate entries containing subject merchandise exported by the companies under review that we determine in the final results to be part of the China-wide entity at the China-wide entity rate of 167.02 percent. Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

Notification Regarding Administrative Protective Order

This notice serves as the only reminder to parties subject to 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

This notice is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.213(d)(4).

be a reviewable, suspended entry to be liquidated at the newly calculated assessment rate'').

[14] *See* Intent to Rescind Memorandum.

[15] *See Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings,* 78 FR 65963, 65969–70 (November 4, 2013).

[16] *See Order,* 82 FR at 18423.

[17] *See* 19 CFR 351.309(d).

[18] *See* 19 351.309(c)(2) and (d)(2)

[19] We use the term ''issue'' here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

[20] *See Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings; Final Rule,* 88 FR 67069 (September 29, 2023).

[21] *See* section 751(a)(3)(A) of the Act; and 19 CFR 351.213(h).

[22] *See* 19 CFR 351.212(b)(1).

Dated: January 12, 2024.

Abdelali Elouaradia,

Deputy Assistant Secretary for Enforcement and Compliance.

Appendix I

1. Jiangsu Bluestar Green Technology Co., Ltd
2. Jiangsu Sanmei Chemicals Co., Ltd.
3. T.T. International Co., Ltd.
4. Weitron International Refrigeration Equipment (Kunshan) Co. Ltd. (aka Weichang Refrigeration Equipment (Kunshan) Co., Ltd.)
5. Zhejiang Sanmei Chemical Industry Co. Ltd.

Appendix II

1. Bestcool Inc., Ltd.
2. Electrochemical Factory of Zhejiang Juhua Co., Ltd.
3. Fujian Qingliu Dongying Chemical Ind. Co., Ltd.
4. Hongkong Richmax Ltd.
5. Huantai Dongyue International Trade Co. Ltd.
6. ICOOL Chemical Co., Ltd.
7. Jinhua Binglong Chemical Technology Co., Ltd.
8. Jinhua Yonghe Fluorochemical Co., Ltd.
9. Ningbo FTZ ICOOL Prime International
10. Puremann, Inc.
11. Shandong Dongyue Chemical Co., Ltd.
12. Shandong Huaan New Material Co., Ltd.
13. Sinochem Environmental Protection Chemicals (Taicang) Co., Ltd.
14. Zhejiang Juhua Co., Ltd.
15. Zhejiang Morita New Materials Co., Ltd.
16. Zhejiang Organic Fluor-Chemistry Plant, Zhejiang Juhua Co., Ltd.
17. Zhejiang Quhua Fluor-Chemistry Co., Ltd.
18. Zhejiang Quhua Juxin Fluorochemical Industry Co., Ltd.
19. Zhejiang Quzhou Juxin Fluorine Chemical Co., Ltd.
20. Zhejiang Quzhou Lianzhou Refrigerants Co., Ltd.
21. Zhejiang Yonghe Refrigerant Co., Ltd.
22. Zhejiang Zhonglan Refrigeration Technology Co., Ltd.
23. Zibo Feiyuan Chemical Co., Ltd.

[FR Doc. 2024–01432 Filed 1–24–24; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–337–808, A–570–162, A–201–862]

Certain Glass Wine Bottles From Chile, the People's Republic of China, and Mexico: Initiation of Less-Than-Fair-Value Investigations

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: Applicable January 18, 2024.

FOR FURTHER INFORMATION CONTACT: Dusten Hom (Chile) at (202) 482–5075; Frank Schmitt (the People's Republic of China (China)) at (202) 482–4880; and Elizabeth Bremer (Mexico) at (202) 482–4987, AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

The Petitions

On December 29, 2023, the U.S. Department of Commerce (Commerce) received antidumping duty (AD) petitions concerning imports of certain glass wine bottles (wine bottles) from Chile, China, and Mexico filed in proper form on behalf of the U.S. Glass Producers Coalition (the petitioner).[1] These AD Petitions were accompanied by a countervailing duty (CVD) petition concerning imports of wine bottles from China.[2]

Between January 3 and 11, 2024, Commerce requested supplemental information pertaining to certain aspects of the Petitions in separate supplemental questionnaires.[3] The petitioner filed responses to the supplemental questionnaires between January 8 and 12, 2024.[4]

In accordance with section 732(b) of the Tariff Act of 1930, as amended (the Act), the petitioner alleges that imports of wine bottles from Chile, China, and Mexico are being, or are likely to be, sold in the United States at less than fair value (LTFV) within the meaning of section 731 of the Act, and that imports of such products are materially injuring, or threatening material injury to, the wine bottles industry in the United States. Consistent with section 732(b)(1) of the Act, the Petitions are accompanied by information reasonably available to the petitioner supporting its allegations.

Commerce finds that the petitioner filed the Petitions on behalf of the domestic industry, because the petitioner is an interested party, as defined in section 771(9)(F) of the Act.[5] Commerce also finds that the petitioner demonstrated sufficient industry support for the initiation of the requested LTFV investigations.[6]

Periods of Investigation

Because the Petitions were filed on December 29, 2023, pursuant to 19 CFR 351.204(b)(1), the period of investigation (POI) for the Chile and Mexico LTFV investigations is October 1, 2022, through September 30, 2023. Because China is a non-market economy (NME) country, pursuant to 19 CFR 351.204(b)(1), the POI for the China LTFV investigation is April 1, 2023, through September 30, 2023.

Scope of the Investigations

The products covered by these investigations are wine bottles from Chile, China, and Mexico. For a full description of the scope of these investigations, *see* the appendix to this notice.

Comments on the Scope of the Investigations

On January 3 and 10, 2024, Commerce requested information and clarification from the petitioner regarding the proposed scope to ensure that the scope language in the Petitions is an accurate reflection of the products for which the domestic industry is seeking relief.[7] On January 8 and 12, 2024, the petitioner provided clarifications and revised the scope.[8] The description of merchandise covered by these investigations, as described in the appendix to this notice, reflects these clarifications.

As discussed in the *Preamble* to Commerce's regulations, we are setting aside a period for parties to raise issues

[1] *See* Petitioner's Letter, ''Certain Glass Wine Bottles from the People's Republic of China, the United Mexican States, and Chile: Petitions for the Imposition of Antidumping and Countervailing Duties,'' dated December 29, 2023 (the Petitions). The members of the U.S. Glass Producers Coalition are Ardagh Glass Inc. (Ardagh) and the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union (USW).

[2] *Id.*

[3] *See* Commerce's Letter, ''Supplemental Questions,'' dated January 3, 2024 (General Issues Questionnaire); *see also* Country-Specific Supplemental Questionnaires: Chile Supplemental, dated January 3, 2024; Country-Specific Supplemental Questionnaires: China Supplemental and Mexico Supplemental, dated January 4, 2024; Memorandum, ''Phone Call,'' dated January 10, 2024 (January 10 Memorandum); and Memorandum, ''Phone Call,'' dated January 11, 2024.

[4] *See* Petitioner's Letters, ''Response to First Supplemental Questions Regarding Common Issues and Injury Petition Volume I of the Petitions,'' dated January 8, 2024 (First General Issues Supplement); Country-Specific Supplemental Responses: Chile Supplemental, Mexico Supplemental, and China Supplemental, dated January 9 and 10, 2024; Second Chile and Mexico Supplemental Responses, dated January 11, 2024; ''Response to Second Supplemental Scope Questions Regarding Common Issues and Injury Petition Volume I of the Petition,'' dated January 12, 2024 (Second General Issues Supplement); and ''Second China Supplemental Response,'' dated January 12, 2024.

[5] The members of the U.S. Glass Producers Coalition (Ardagh and the USW) are interested parties as defined under section 771(9)(C) and (D) of the Act, respectively.

[6] *See* section on ''Determination of Industry Support for the Petitions,'' *infra.*

[7] *See* General Issues Questionnaire; *see also* January 10 Memorandum.

[8] *See* First General Issues Supplement at 2–4 and Exhibits I-Supp-4 and I-Supp-5; *see also* Second General Issues Supplement at 1–3.

regarding product coverage (*i.e.,* scope).[9] Commerce will consider all scope comments received from interested parties and, if necessary, will consult with interested parties prior to the issuance of the preliminary determinations. If scope comments include factual information,[10] all such factual information should be limited to public information. To facilitate preparation of its questionnaires, Commerce requests that scope comments be submitted by 5 p.m. Eastern Time (ET) on February 7, 2024, which is 20 calendar days from the signature date of this notice. Any rebuttal comments, which may include factual information, must be filed by 5 p.m. ET on February 20, 2024, which is the next business day after 10 calendar days from the initial comment deadline.[11]

Commerce requests that any factual information that parties consider relevant to the scope of these investigations be submitted during that period. However, if a party subsequently finds that additional factual information pertaining to the scope of the investigations may be relevant, the party must contact Commerce and request permission to submit the additional information. All such submissions must be filed on the records of each of the concurrent LTFV and CVD investigations.

Filing Requirements

All submissions to Commerce must be filed electronically using Enforcement and Compliance's Antidumping Duty and Countervailing Duty Centralized Electronic Service System (ACCESS), unless an exception applies.[12] An electronically filed document must be received successfully in its entirety by the time and date it is due.

Comments on Product Characteristics

Commerce is providing interested parties an opportunity to comment on the appropriate physical characteristics of wine bottles to be reported in response to Commerce's AD questionnaires. This information will be used to identify the key physical characteristics of the subject merchandise in order to report the relevant factors of production (FOP) or costs of production (COP) accurately, as well as to develop appropriate product comparison criteria.

Interested parties may provide any information or comments that they feel are relevant to the development of an accurate list of physical characteristics. Specifically, they may provide comments as to which characteristics are appropriate to use as: (1) general product characteristics; and (2) product comparison criteria. We note that it is not always appropriate to use all product characteristics as product comparison criteria. We base product comparison criteria on meaningful commercial differences among products. In other words, although there may be some physical product characteristics utilized by manufacturers to describe wine bottles, it may be that only a select few product characteristics take into account commercially meaningful physical characteristics. In addition, interested parties may comment on the order in which the physical characteristics should be used in matching products. Generally, Commerce attempts to list the most important physical characteristics first and the least important characteristics last.

In order to consider the suggestions of interested parties in developing and issuing the AD questionnaires, all product characteristics comments must be filed by 5 p.m. ET on February 7, 2024, which is 20 calendar days from the signature date of this notice.[13] Any rebuttal comments must be filed by 5 p.m. ET on February 20, 2024, which is the next business day after 10 calendar days from the initial comment deadline.[14] All comments and submissions to Commerce must be filed electronically using ACCESS, as explained above, on the record of each of the AD investigations.

Determination of Industry Support for the Petitions

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) at least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, Commerce shall: (i) poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the ''industry.''

Section 771(4)(A) of the Act defines the ''industry'' as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs Commerce to look to producers and workers who produce the domestic like product. The U.S. International Trade Commission (ITC), which is responsible for determining whether ''the domestic industry'' has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both Commerce and the ITC must apply the same statutory definition regarding the domestic like product,[15] they do so for different purposes and pursuant to a separate and distinct authority. In addition, Commerce's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.[16]

Section 771(10) of the Act defines the domestic like product as ''a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.'' Thus, the

[9] *See Antidumping Duties; Countervailing Duties, Final Rule,* 62 FR 27296, 27323 (May 19, 1997) (*Preamble*); *see also* 19 CFR 351.312.

[10] *See* 19 CFR 351.102(b)(21) (defining ''factual information'').

[11] The deadline for rebuttal comments falls on February 17, 2024, which is a Saturday. In accordance with 19 CFR 351.303(b)(1), Commerce will accept rebuttal comments filed by 5 p.m. ET on February 20, 2024. *Id.* (''For both electronically filed and manually filed documents, if the applicable due date falls on a non-business day, the Secretary will accept documents that are filed on the next business day.'').

[12] *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011); *see also Enforcement and Compliance: Change of Electronic Filing System Name,* 79 FR 69046 (November 20, 2014) for details of Commerce's electronic filing requirements, effective August 5, 2011. Information on help using ACCESS can be found at *https://access.trade.gov/help.aspx* and a handbook can be found at *https://access.trade.gov/help/Handbook_on_Electronic_Filing_Procedures.pdf.*

[13] *See* 19 CFR 351.303(b)(1).

[14] The deadline for rebuttal comments falls on February 17, 2024, which is a Saturday. In accordance with 19 CFR 351.303(b)(1), Commerce will accept rebuttal comments filed by 5 p.m. ET on February 20, 2024. *Id.* (''For both electronically filed and manually filed documents, if the applicable due date falls on a non-business day, the Secretary will accept documents that are filed on the next business day.'').

[15] *See* section 771(10) of the Act.

[16] *See USEC, Inc.* v. *United States,* 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd.* v. *United States,* 688 F. Supp. 639, 644 (CIT 1988), *aff'd Algoma Steel Corp., Ltd.* v. *United States,* 865 F.2d 240 (Fed. Cir. 1989)).

reference point from which the domestic-like product analysis begins is ''the article subject to an investigation'' (*i.e.,* the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, the petitioner does not offer a definition of the domestic like product distinct from the scope of the investigations.[17] Based on our analysis of the information submitted on the record, we have determined that wine bottles, as defined in the scope, constitute a single domestic like product, and we have analyzed industry support in terms of that domestic like product.[18]

In determining whether the petitioner has standing under section 732(c)(4)(A) of the Act, we considered the industry support data contained in the Petitions with reference to the domestic like product as defined in the ''Scope of the Investigations,'' in the appendix to this notice. To establish industry support, the petitioner provided the total 2022 production of the domestic like product for the U.S. producers that support the Petitions and compared this to the estimated total 2022 production of the domestic like product for the entire domestic industry.[19] We relied on the data provided by the petitioner for purposes of measuring industry support.[20]

Our review of the data provided in the Petitions, the First General Issues Supplement, the Second General Issues Supplement, and other information readily available to Commerce indicates that the petitioner has established industry support for the Petitions.[21] First, the Petitions established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, Commerce is not required to take further action in order to evaluate industry support (*e.g.,* polling).[22] Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petitions account for at least 25 percent of the total production of the domestic like product.[23] Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petitions account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petitions.[24] Accordingly, Commerce determines that the Petitions were filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act.[25]

Allegations and Evidence of Material Injury and Causation

The petitioner alleges that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the imports of the subject merchandise sold at LTFV. In addition, the petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.[26]

The petitioner contends that the industry's injured condition is illustrated by the significant volume and market share of subject imports; underselling and price depression and/or suppression; lost sales and revenues; negative impact on the domestic industry's production and shipments; layoffs; and declining financial performance.[27] We assessed the allegations and supporting evidence regarding material injury, threat of material injury, causation, as well as negligibility, and we have determined that these allegations are properly supported by adequate evidence, and meet the statutory requirements for initiation.[28]

Allegations of Sales at LTFV

The following is a description of the allegations of sales at LTFV upon which Commerce based its decision to initiate LTFV investigations of imports of wine bottles from Chile, China, and Mexico. The sources of data for the deductions and adjustments relating to U.S. price and normal value (NV) are discussed in greater detail in the Country-Specific AD Initiation Checklists.

U.S. Price

For Chile, China, and Mexico, the petitioner based export price (EP) on pricing information for sales of, or offers for sale of, wine bottles produced in and exported from each country.[29] For each country, the petitioner made certain adjustments to U.S. price to calculate a net ex-factory U.S. price, where applicable.[30]

Normal Value [31]

For Chile and Mexico, the petitioner stated that it was unable to obtain home market or third country pricing information for wine bottles to use as a basis for NV.[32] Therefore, for Chile and Mexico, the petitioner calculated NV based on CV.[33] For further discussion of CV, *see* the section ''Normal Value Based on Constructed Value,'' below.

Commerce considers China to be an NME county.[34] In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect

[17] *See* Petitions at Volume I (pages 12–15); *see also* Second General Issues Supplement at 3.

[18] For a discussion of the domestic like product analysis as applied to these cases and information regarding industry support, *see* Antidumping Duty Investigation Initiation Checklists: Certain Glass Wine Bottles from Chile, the People's Republic of China, and Mexico, dated concurrently with this notice (Country-Specific AD Initiation Checklists) at Attachment II, Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering Certain Glass Wine Bottles from Chile, the People's Republic of China, and Mexico (Attachment II). These checklists are on file electronically via ACCESS.

[19] *See* Petitions at Volume I (pages 2–3 and Exhibits I–3 and I–4); *see also* First General Issues Supplement at 5–6 and Exhibits I-Supp-6 through I-Supp-9.

[20] *See* Petitions at Volume I (pages 2–3 and Exhibits I–3 and I–4); *see also* First General Issues Supplement at 5–6 and Exhibits I-Supp-6 through I-Supp-9; and Second General Issues Supplement at 3–4. For further discussion, *see* Attachment II of the Country-Specific AD Initiation Checklists.

[21] *See* Petitions at Volume I (pages 2–3 and Exhibits I–3 and I–4); *see also* First General Issues Supplement at 5–6 and Exhibits I-Supp-6 through I-Supp-9; and Second General Issues Supplement at 3–4. For further discussion, *see* Attachment II of the Country-Specific AD Initiation Checklists.

[22] *See* Attachment II of the Country-Specific AD Initiation Checklists; *see also* section 732(c)(4)(D) of the Act.

[23] *See* Attachment II of the Country-Specific AD Initiation Checklists.

[24] *Id.*

[25] *Id.*

[26] *See* Petitions at Volume I (pages 20–21 and Exhibit I–22).

[27] *Id.* at Volume I (pages 15–30 and Exhibits I–14 and I–19 through I–29); *see also* General Issues Supplement at 6 and Exhibit I-Supp-10.

[28] *See* Country-Specific AD Initiation Checklists at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping and Countervailing Duty Petitions Covering Certain Glass Wine Bottles from Chile, the People's Republic of China, and Mexico.

[29] *See* Country-Specific AD Initiation Checklists.

[30] *Id.*

[31] In accordance with section 773(b)(2) of the Act, for the Chile and Mexico investigations, Commerce will request information necessary to calculate the constructed value (CV) and COP to determine whether there are reasonable grounds to believe or suspect that sales of the foreign like product have been made at prices that represent less than the COP of the product.

[32] *See* Country-Specific AD Initiation Checklists.

[33] *Id.*

[34] *See, e.g., Certain Freight Rail Couplers and Parts Thereof from the People's Republic of China: Preliminary Affirmative Determination of Sales at Less Than Fair Value and Preliminary Affirmative Determination of Critical Circumstances,* 88 FR 15372 (March 13, 2023), and accompanying Preliminary Decision Memorandum at 5, unchanged in *Certain Freight Rail Couplers and Parts Thereof from the People's Republic of China: Final Affirmative Determination of Sales at Less-Than-Fair Value and Final Affirmative Determination of Critical Circumstances,* 88 FR 34485 (May 30, 2023).

until revoked by Commerce. Therefore, we continue to treat China as an NME country for purposes of the initiation of these investigations. Accordingly, we base NV on FOPs valued in a surrogate market economy country in accordance with section 773(c) of the Act.

The petitioner claims that Chile is an appropriate surrogate country for China because it is a market economy that is at a level of economic development comparable to that of China and is a significant producer of identical and comparable merchandise.[35] The petitioner provided publicly available information from Chile to value all FOPs.[36] Based on the information provided by the petitioner, we believe it is appropriate to use Chile as a surrogate country to value all FOPs for initiation purposes.

Interested parties will have the opportunity to submit comments regarding surrogate country selection and, pursuant to 19 CFR 351.301(c)(3)(i), will be provided an opportunity to submit publicly available information to value FOPs within 30 days before the scheduled date of the preliminary determination.

Factors of Production

Because information regarding the volume of inputs consumed by Chinese producers/exporters was not reasonably available, the petitioner used product-specific consumption rates from a U.S. producer of wine bottles as a surrogate to value Chinese manufacturers' FOPs.[37] Additionally, the petitioner calculated factory overhead, SG&A, and profit based on the experience of a Chilean producer of comparable merchandise.[38]

Normal Value Based on Constructed Value

As noted above for Chile and Mexico, the petitioner stated that it was unable to obtain home market or third-country prices for wine bottles to use as a basis for NV. Therefore, for these countries, the petitioner calculated NV based on CV.[39]

Pursuant to section 773(e) of the Act, the petitioner calculated CV as the sum of the cost of manufacturing, SG&A, financial expenses, and profit.[40] For each of these countries, in calculating the cost of manufacturing, the petitioner relied on the production experience and input consumption rates of a U.S. producer of wine bottles, valued using publicly available information applicable to the respective countries.[41] In calculating SG&A, financial expenses, and profit ratios, the petitioner relied on the calendar year 2022 financial statements of a producer of identical or comparable merchandise domiciled in each respective subject country.[42]

Fair Value Comparisons

Based on the data provided by the petitioner, there is reason to believe that imports of wine bottles from Chile, China, and Mexico are being, or are likely to be, sold in the United States at LTFV. Based on comparisons of EP to NV in accordance with sections 772 and 773 of the Act, the estimated dumping margins for wine bottles for each of the countries covered by this initiation are as follows: (1) Chile—609.71 percent; (2) China—284.53 to 301.12 percent; and (3) Mexico—79.83 to 96.95 percent.[43]

Initiation of LTFV Investigations

Based upon the examination of the Petitions and supplemental responses, we find that they meet the requirements of section 732 of the Act. Therefore, we are initiating LTFV investigations to determine whether imports of wine bottles from Chile, China, and Mexico are being, or are likely to be, sold in the United States at LTFV. In accordance with section 733(b)(1)(A) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determinations no later than 140 days after the date of these initiations.

Respondent Selection

Chile and Mexico

In the Petitions, the petitioner identified three companies in Chile and seven companies in Mexico as producers/exporters of wine bottles.[44] Following standard practice in LTFV investigations involving market economy countries, in the event Commerce determines that the number of companies is large, and it cannot individually examine each company based upon Commerce's resources, where appropriate, Commerce intends to select mandatory respondents based on U.S. Customs and Border Protection (CBP) data for imports under the appropriate Harmonized Tariff Schedule of the United States (HTSUS) subheading(s) listed in the ''Scope of the Investigations,'' in the appendix.

On January 16, 2024, Commerce released CBP data on imports of wine bottles from Chile and Mexico under administrative protective order (APO) to all parties with access to information protected by APO and indicated that interested parties wishing to comment on CBP data and/or respondent selection must do so within three business days of the publication date of the notice of initiation of these investigations.[45] Comments must be filed electronically using ACCESS. An electronically filed document must be received successfully in its entirety via ACCESS by 5 p.m. ET on the specified deadline. Commerce will not accept rebuttal comments regarding the CBP data or respondent selection.

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305(b). Instructions for filing such applications may be found on Commerce's website at *https://www.trade.gov/administrative-protective-orders.*

China

In the Petitions, the petitioner named 36 companies in China as producers and/or exporters of wine bottles.[46] Our standard practice for respondent selection in AD investigations involving NME countries is to select respondents based on Q&V questionnaires in cases where it has determined that the number of companies is large and it cannot individually examine each company based upon its resources. Therefore, considering the number of producers and/or exporters identified in the Petitions, Commerce will solicit Q&V information that can serve as a basis for selecting exporters for individual examination in the event that Commerce determines that the number is large and decides to limit the number of respondents individually examined pursuant to section 777A(c)(2) of the Act. Because there are 36 Chinese producers and/or exporters identified in the Petitions, Commerce has determined that it will issue Q&V questionnaires to the largest producers and/or exporters that are identified in the CBP data for which there is complete address information on the record.

Commerce will post the Q&V questionnaires along with filing

[35] *See* China AD Initiation Checklist.

[36] *Id.*

[37] *Id.*

[38] *Id.*

[39] *See* Country-Specific AD Initiation Checklists.

[40] *Id.*

[41] *Id.*

[42] *Id.*

[43] *Id.*

[44] *See* Petitions at Volume I (page 10 and Exhibits I–12 and I–13); *see also* First General Issues Supplement at 1 and Exhibits I-Supp-1 and I-Supp-2.

[45] *See* Memorandum, ''Release of U.S. Customs and Border Protection Entry Data,'' dated January 12, 2024; *see also* Memorandum, ''Release of U.S. Customs and Border Protection Data,'' dated January 16, 2023; and Memorandum, ''Certain Glass Wine Bottles from the People's Republic of China: Release of U.S. Customs and Border Protection Entry Data,'' dated January 16, 2024.

[46] *See* Petitions at Volume I (page 10 and Exhibit I–11); *see also* First General Issues Supplement at 1 and Exhibit I-Supp-3.

instructions on Commerce's website at *https://www.trade.gov/ec-adcvd-case-announcements.* Producers/exporters of wine bottles from China that do not receive Q&V questionnaires may still submit a response to the Q&V questionnaire and can obtain a copy of the Q&V questionnaire from Commerce's website. Responses to the Q&V questionnaire must be submitted by the relevant Chinese producers/exporters no later than 5:00 p.m. ET on February 1, 2024, which is two weeks from the signature date of this notice. All Q&V questionnaire responses must be filed electronically via ACCESS. An electronically filed document must be received successfully, in its entirety, by ACCESS no later than 5:00 p.m. ET on the deadline noted above.

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305(b). As stated above, instructions for filing such applications may be found on Commerce's website at *https://www.trade.gov/administrative-protective-orders.*

Separate Rates

In order to obtain separate rate status in an NME investigation, exporters and producers must submit a separate rate application. The specific requirements for submitting a separate rate application in an NME investigation are outlined in detail in the application itself, which is available on Commerce's website at *https://access.trade.gov/Resources/nme/nme-sep-rate.html.* The separate rate application will be due 30 days after publication of this initiation notice. Exporters and producers must file a timely separate rate application if they want to be considered for individual examination. Exporters and producers who submit a separate rate application and have been selected as mandatory respondents will be eligible for consideration for separate rate status only if they respond to all parts of Commerce's AD questionnaire as mandatory respondents. Commerce requires that companies from China submit a response both to the Q&V questionnaire and to the separate rate application by the respective deadlines in order to receive consideration for separate rate status. Companies not filing a timely Q&V questionnaire response will not receive separate rate consideration.

Use of Combination Rates

Commerce will calculate combination rates for certain respondents that are eligible for a separate rate in an NME investigation. The Separate Rates and Combination Rates Bulletin states:

> {w}hile continuing the practice of assigning separate rates only to exporters, all separate rates that {Commerce} will now assign in its NME Investigation will be specific to those producers that supplied the exporter during the period of investigation. Note, however, that one rate is calculated for the exporter and all of the producers which supplied subject merchandise to it during the period of investigation. This practice applies both to mandatory respondents receiving an individually calculated separate rate as well as the pool of non-investigated firms receiving the {weighted average} of the individually calculated rates. This practice is referred to as the application of ''combination rates'' because such rates apply to specific combinations of exporters and one or more producers. The cash-deposit rate assigned to an exporter will apply only to merchandise both exported by the firm in question *and* produced by a firm that supplied the exporter during the period of investigation.[47]

Distribution of Copies of the Petitions

In accordance with section 732(b)(3)(A) of the Act and 19 CFR 351.202(f), copies of the public version of the Petitions have been provided to the governments of Chile, China, and Mexico via ACCESS. To the extent practicable, we will attempt to provide a copy of the public version of the Petitions to each exporter named in the Petitions, as provided under 19 CFR 351.203(c)(2).

ITC Notification

Commerce will notify the ITC of our initiation, as required by section 732(d) of the Act.

Preliminary Determinations by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the Petitions were filed, whether there is a reasonable indication that imports of wine bottles from Chile, China, and/or Mexico are materially injuring, or threatening material injury to, a U.S. industry.[48] A negative ITC determination for any country will result in the investigation being terminated with respect to that country.[49] Otherwise, these LTFV investigations will proceed according to statutory and regulatory time limits.

Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by Commerce; and (v) evidence other than factual information described in (i)-(iv). Section 351.301(b) of Commerce's regulations requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted[50] and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct.[51] Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Interested parties should review the regulations prior to submitting factual information in these investigations.

Particular Market Situation Allegation

Section 773(e) of the Act addresses the concept of particular market situation (PMS) for purposes of CV, stating that ''if a particular market situation exists such that the cost of materials and fabrication or other processing of any kind does not accurately reflect the cost of production in the ordinary course of trade, the administering authority may use another calculation methodology under this subtitle or any other calculation methodology.'' When an interested party submits a PMS allegation pursuant to section 773(e) of the Act, Commerce will respond to such a submission consistent with 19 CFR 351.301(c)(2)(v). If Commerce finds that a PMS exists under section 773(e) of the Act, then it will modify its dumping calculations appropriately.

Neither section 773(e) of the Act, nor 19 CFR 351.301(c)(2)(v), set a deadline for the submission of PMS allegations and supporting factual information. However, in order to administer section 773(e) of the Act, Commerce must receive PMS allegations and supporting factual information with enough time to consider the submission. Thus, should an interested party wish to submit a PMS allegation and supporting new factual information pursuant to section 773(e) of the Act, it must do so no later than 20 days after submission of a

[47] *See* Enforcement and Compliance's Policy Bulletin 05.1, regarding, ''Separate-Rates Practice and Application of Combination Rates in Antidumping Investigation involving NME Countries,'' (April 5, 2005) at 6 (emphasis added), available on Commerce's website at *https://access.trade.gov/Resources/policy/bull05-1.pdf.*

[48] *See* section 733(a) of the Act.

[49] *Id.*

[50] *See* 19 CFR 351.301(b).

[51] *See* 19 CFR 351.301(b)(2).

respondent's initial section D questionnaire response.

Extensions of Time Limits

Parties may request an extension of time limits before the expiration of a time limit established under 19 CFR 351.301, or as otherwise specified by Commerce. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under 19 CFR 351.301.[52] For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. ET on the due date. Under certain circumstances, Commerce may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, we will inform parties in a letter or memorandum of the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, standalone submission; under limited circumstances we will grant untimely filed requests for the extension of time limits, where we determine, based on 19 CFR 351.302, that extraordinary circumstances exist. Parties should review Commerce's regulations concerning the extension of time limits and the *Time Limits Final Rule* prior to submitting factual information in these investigations.[53]

Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.[54] Parties must use the certification formats provided in 19 CFR 351.303(g).[55] Commerce intends to reject factual submissions if the submitting party does not comply with the applicable certification requirements.

Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. Parties wishing to participate in these investigations should ensure that they meet the requirements of 19 CFR 351.103(d) (*e.g.,* by filing the required letter of appearance). Note that Commerce has modified certain of its requirements for serving documents containing business proprietary information.[56]

This notice is issued and published pursuant to sections 732(c)(2) and 777(i) of the Act, and 19 CFR 351.203(c).

Dated: January 18, 2024.

Abdelali Elouaradia,

Deputy Assistant Secretary for Enforcement and Compliance.

Appendix

Scope of the Investigations

The merchandise covered by the investigations is certain narrow neck glass bottles, with a nominal capacity of 740 milliliters (25.02 ounces) to 760 milliliters (25.70 ounces); a nominal total height between 24.8 centimeters (9.75 inches) to 35.6 centimeters (14 inches); a nominal base diameter between 4.6 centimeters (1.8 inches) to 11.4 centimeters (4.5 inches); and a mouth with an outer diameter of between 25 millimeters (.98 inches) to 37.9 millimeters (1.5 inches); frequently referred to as a ''wine bottle.'' In scope merchandise may include but is not limited to the following shapes: Bordeaux (also known as ''Claret''), Burgundy, Hock, Champagne, Sparkling, Port, Provence, or Alsace (also known as ''Germanic''). In scope glass bottles generally have an approximately round base and have shapes including but not limited to, straight-sided, a tapered slope from shoulder (*i.e.,* the sloping part of the bottle between the neck and the body) to base, or a long neck with sloping shoulders to a wider base. The scope includes glass bottles, whether or not clear, whether or not colored, with or without a punt (*i.e.,* an indentation on the underside of the bottle), and with or without design or functional enhancements (including, but not limited to, embossing, labeling, or etching). In scope merchandise is made of non-''free blown'' glass, *i.e.,* in scope merchandise is produced with the use of a mold and is distinguished by mold seams, joint marks, or parting lines. In scope merchandise is unfilled and may be imported with or without a closure, including a cork, stelvin (screw cap), crown cap, or wire cage and cork closure.

Excluded from the scope of the investigations are: (1) glass containers made of borosilicate glass, meeting United States Pharmacopeia requirements for Type 1 pharmaceutical containers; and (2) glass containers without a ''finish'' (*i.e.,* the section of a container at the opening including the lip and ring or collar, threaded or otherwise compatible with a type of closure, including but not limited to a cork, stelvin (screw cap), crown cap, or wire cage and cork closure).

Glass bottles subject to the investigations are specified within the Harmonized Tariff Schedule of the United States (HTSUS) under subheading 7010.90.5019. The HTSUS subheading is provided for convenience and customs purposes only. The written description of the scope of the investigations is dispositive.

[FR Doc. 2024–01398 Filed 1–24–24; 8:45 am]

BILLING CODE 3510–DS–P

[52] *See* 19 CFR 351.301; *see also Extension of Time Limits; Final Rule,* 78 FR 57790 (September 20, 2013) (*Time Limits Final Rule*), available at *https://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm.*

[53] *See* 19 CFR 351.302; *see also, e.g., Time Limits Final Rule.*

[54] *See* section 782(b) of the Act.

[55] *See Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings,* 78 FR 42678 (July 17, 2013) (*Final Rule*). Additional information regarding the *Final Rule* is available at *https://access.trade.gov/Resources/filing/index.html.*

[56] *See Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings,* 88 FR 67069 (September 29, 2023).

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Notice of Intent To Conduct Scoping and To Prepare a Draft Environmental Impact Statement for the Proposed Bay of Green Bay National Estuarine Research Reserve

AGENCY: Office for Coastal Management (OCM), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce.

ACTION: Notice of intent to prepare a draft environmental impact statement and hold public scoping meetings; request for comments.

SUMMARY: In accordance with Section 315 of the Coastal Zone Management Act of 1972, as amended, and the National Environmental Policy Act of 1969, as amended, NOAA and the State of Wisconsin intend to prepare a draft environmental impact statement and draft management plan for the proposed Bay of Green Bay National Estuarine Research Reserve. NOAA and the State are also announcing two public scoping meetings to solicit comments on significant issues related to the development of a draft environmental impact statement for the proposed Bay of Green Bay National Estuarine Research Reserve.

DATES: Both an in-person meeting and a virtual meeting will be held on Tuesday, March 19, 2024. The virtual meeting will be held at 10 a.m. Central Time (CT). The in-person meeting will be held at 1:30 p.m. CT. Written comments provided electronically must be submitted no later than Friday, April 19, 2024; written comments submitted by mail must be postmarked by Friday, April 19, 2024.

ADDRESSES: The virtual public scoping meeting will be held on Zoom at the following link: *wisconsin-edu.zoom.us/j/99904429917?pwd=akF5N1IrSHhCKzdYVEVtWmNKNU90dz09* at 10 a.m. Central Time. If requested upon joining the virtual meeting, the meeting ID is

999 0442 9917, and the attendee access code is NERR. Participants may also join the meeting by phone by using this toll-free number: +1 (312) 626–6799, along with meeting ID 999 0442 9917, and attendee access code 826461.

The in-person public scoping meeting will be conducted in the S.T.E.M. Innovation Center at the University of Wisconsin Green Bay campus, located at 2019 Technology Way, Green Bay, Wisconsin 54311 at 1:30 p.m. Central Time. This meeting will be in-person only and not broadcast.

Participants will be able to provide comments during both meetings. Both public meetings will present the same information. Meeting documents will be available on the University of Wisconsin-Green Bay's national estuarine research reserve website, *uwgb.edu/national-estuarine-research-reserves,* as well as on the Federal eRulemaking Portal, *regulations.gov/docket?D=NOAA-NOS-2024-0006.*

Written comments may be submitted using the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal eRulemaking Portal. Go to *regulations.gov/docket?D=NOAA-NOS-2024-0006,* click the ''Comment Now!'' button, complete the required fields, and enter or attach your comments. Written comments must be submitted no later than 11:59 p.m. Eastern Time on Friday, April 19, 2024.
- *Mail:* Submit written comments to Bridget Faust-Accola, Office for Coastal Management, 1735 Lake Drive West, Chanhassen, Minnesota 55317; ATTN: Bay of Green Bay Research Reserve. Comments must be postmarked no later than Friday, April 19, 2024.

Instructions: All comments received are part of the public record and will be posted for public viewing on *regulations.gov/docket?D=NOAA-NOS-2024-0006* with no changes. All personally identifiable information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the commenter will be publicly accessible and maintained by NOAA as part of the public record. NOAA will accept anonymous comments. To do so, on the *eRulemaking Portal,* enter ''N/A'' in the required fields if you wish to remain anonymous. If you would like to submit an anonymous comment during the in-person meeting, a comment box, along with paper and writing implements, will be provided. If you would like to provide an anonymous comment during the virtual public scoping meeting, type your comment into the question box, and state that you would like to remain anonymous when your comment is read. Multimedia submissions (*i.e.,* 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. NOAA will generally not consider comments, or comment contents, located outside of the primary submission sites or addresses (*i.e.,* those posted on the web, cloud, or other file-sharing system). Please note that no public comments will be audio or video recorded by NOAA or the State.

FOR FURTHER INFORMATION CONTACT: Bridget Faust-Accola, Office for Coastal Management, 1735 Lake Drive West, Chanhassen, Minnesota 55317; ATTN: Bay of Green Bay NERR. Phone: 612–564–0323; or email: *bridget.faust@noaa.gov.*

SUPPLEMENTARY INFORMATION: In accordance with section 315 of the Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1461), and its implementing regulations (15 CFR part 921), and the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321), and its implementing regulations (40 CFR part 1500), NOAA and the State intend to prepare a draft environmental impact statement for the proposed Bay of Green Bay National Estuarine Research Reserve. Early in the development of this document, NOAA and the State are required to hold a scoping meeting to solicit public and government comments on significant issues related to this proposed action. (15 CFR 921.13(c)).

NOAA received the State's nomination of the proposed multicomponent site on December 29, 2022. NOAA evaluated the nomination package and found that the proposed site met the research reserve system's requirements. NOAA informed the State in early 2024 that it was approving the nomination and that the next step would be to prepare a draft environmental impact statement and draft management plan. The draft environmental impact statement will assess the potential environmental and socioeconomic impacts of designating the State's proposed site as a National Estuarine Research Reserve System site, and identify and assess the impacts of boundary alternatives. The draft management plan will set a course for operating the Bay of Green Bay National Estuarine Research Reserve once approved, and will include plans for administration, research, education, and facilities for the proposed site. (*See* 15 CFR 921.13.)

The State's proposed site consists of three components, including all or portions of the following State, university, county, local government, or land trust-owned properties: the Peshtigo Harbor State Wildlife Area, Bloch Oxbow State Natural Area, and Badger Gift Lands; the Peats Lake, Sensiba, Tibbet-Suamico, and Long Tail Units within the Green Bay West Shores Wildlife Area; the Suamico River State Habitat Area; Barkhausen Waterfowl Preserve; Fort Howard Wildlife Area; Gordon Nauman Conservation Area; Ken Euers Nature Area; Point au Sable and Wequiock Creek Natural Areas; Crossroads at Big Creek; the Strawberry Creek Chinook Facility, and Sturgeon Bay Ship Canal Nature Preserve.

The proposed site resulted from the State's comprehensive evaluation process that sought input from the public, affected landowners, and other interested parties. The State held public kickoff meetings in April 2021 to describe the research reserve system, explain the rationale for establishing a reserve in the Bay of Green Bay, and outline a process for selecting and nominating a site to NOAA. The State assembled committees composed of State and Federal agency representatives, Tribal Nations, academia, non-governmental organizations, members of the public, and local units of government. These committees conducted preliminary screening, developed and applied site selection criteria, scored those sites that showed the most potential, and ultimately recommended a site for the future reserve. The State and NOAA held public hearings on September 7 and 8, 2022, to solicit comments on the proposed site. For more detailed information on the site selection process and the proposed site, see the University of Wisconsin-Green Bay's research reserve website: *uwgb.edu/national-estuarine-research-reserves.*

Federal Domestic Assistance Catalog Number 11.420 (Coastal Zone Management) Research Reserves

Authority: 16 U.S.C. 1461.

Keelin S. Kuipers,

Deputy Director, Office for Coastal Management, National Ocean Service, National Oceanic and Atmospheric Administration.

[FR Doc. 2024–01477 Filed 1–24–24; 8:45 am]

BILLING CODE 3510–08–P

CONSUMER PRODUCT SAFETY COMMISSION

[Docket No. CPSC–2010–0053]

Agency Information Collection Activities; Extension of Approval of Information Collection; Safety Standard for Multi-Purpose Lighters

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of information collection; request for comment.

SUMMARY: As required by the Paperwork Reduction Act of 1995, the Consumer Product Safety Commission (CPSC or Commission) announces that the Commission has submitted to the Office of Management and Budget (OMB) a request for extension of approval of a collection of information regarding the Safety Standard for Multi-Purpose Lighters. OMB previously approved the collection of information under Control Number 3041–0130. OMB's most recent extension of approval will expire on January 31, 2024. On November 15, 2023, CPSC published a notice in the **Federal Register** to announce the agency's intention to seek extension of approval of the collection of information. The Commission received no comments. Therefore, by publication of this notice, the Commission announces that CPSC has submitted to the OMB a request for extension of approval of that collection of information.

DATES: Submit comments on the collection of information by February 26, 2024.

ADDRESSES: Submit comments about this request by email: *OIRA_submission@omb.eop.gov* or fax: 202–395–6881. Comments by mail should be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the CPSC, Office of Management and Budget, Room 10235, 725 17th Street NW, Washington, DC 20503. In addition, written comments that are sent to OMB also should be submitted electronically at *http://www.regulations.gov,* under Docket No. CPSC–2010–0053.

FOR FURTHER INFORMATION CONTACT: Cynthia Gillham, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; (301) 504–7791, or by email to: *pra@cpsc.gov.*

SUPPLEMENTARY INFORMATION: CPSC seeks to renew the following currently approved collection of information:

Title: Safety Standard for Multi-Purpose Lighters.

OMB Number: 3041–0130.

Type of Review: Renewal of collection.

Frequency of Response: On occasion.

Affected Public: Manufacturers and importers of multi-purpose lighters.

Estimated Number of Respondents: Based on five years of CPSC data, there are an estimated 47 firms that import, distribute, or sell multi-purpose lighters in the United States. Based on past experience, CPSC expects that firms will conduct recordkeeping and reporting activities for an average of two multi-purpose lighter models each year.

Estimated Time per Response: The costs associated with the rule include reporting, recordkeeping, and other certification-related activities. CPSC estimates that the burden per model is: 10 hours to generate test data, record it, and enter the data into a computerized dataset; five hours for annual review and removal of records; and five hours for responding to CPSC records requests—for a total of 20 hours per model.

Total Estimated Annual Burden: CPSC estimates that 47 firms will each conduct recordkeeping and reporting activities for an average of two models per year, and that a total of 20 hours will be required per model. As a result, CPSC estimates that the total annual burden of this collection is 1,880 hours. The annualized cost to respondents for the information collection is $63,318.40 (1,880 hours × $33.68/hour), as estimated from total compensation data available from the U.S. Bureau of Labor Statistics.[1]

General Description of Collection: The Commission's safety standard for multi-purpose lighters (16 CFR part 1212) and section 14(a)(1) of the Consumer Product Safety Act require that manufacturers, including importers, of multi-purpose lighters issue certificates of compliance based on a reasonable testing program. The standard also requires manufacturers and importers to establish and maintain records to demonstrate successful completion of all required tests to support the certificates of compliance that they issue. Respondents must comply with these testing, certification, and recordkeeping requirements for multi-purpose lighters.

[1] Total hourly compensation for office and administrative support occupations in goods-producing industries is estimated by the U.S. Bureau of Labor Statistics to be $33.68: Employer Costs for Employee Compensation, March 2023, Table 4: (*https://www.bls.gov/news.release/archives/ecec_06162023.pdf*).

Alberta E. Mills,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2024–01375 Filed 1–24–24; 8:45 am]

BILLING CODE 6355–01–P

CONSUMER PRODUCT SAFETY COMMISSION

[Docket No. CPSC–2010–0054]

Agency Information Collection Activities; Extension of Approval of Information Collection; Procedures for Export of Noncomplying Products

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of information collection; request for comment.

SUMMARY: As required by the Paperwork Reduction Act of 1995, the Consumer Product Safety Commission (CPSC or Commission) announces that the Commission has submitted to the Office of Management and Budget (OMB) a request for extension of approval of a collection of information relating to the procedures for the export of noncomplying products. OMB previously approved the collection of information under Control Number 3041–0003. OMB's most recent extension of approval will expire on January 31, 2024. On November 15, 2023, CPSC published a notice in the **Federal Register** to announce the agency's intention to seek extension of approval of the collection of information. The Commission received no comments. Therefore, by publication of this notice, the Commission announces that CPSC has submitted to the OMB a request for extension of approval of that collection of information.

DATES: Submit comments on the collection of information by February 26, 2024.

ADDRESSES: Submit comments about this request by email: *OIRA_submission@omb.eop.gov* or fax: 202–395–6881. Comments by mail should be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the CPSC, Office of Management and Budget, Room 10235, 725 17th Street NW, Washington, DC 20503. In addition, written comments that are sent to OMB also should be submitted electronically at *http://www.regulations.gov,* under Docket No. CPSC–2010–0054.

FOR FURTHER INFORMATION CONTACT: Cynthia Gillham, Consumer Product

Safety Commission, 4330 East West Highway, Bethesda, MD 20814; (301) 504–7791, or by email to: *pra@cpsc.gov.*

SUPPLEMENTARY INFORMATION: CPSC seeks to renew the following currently approved collection of information:

Title: Procedures for the Export of Noncomplying Products.

OMB Number: 3041–0003.

Type of Review: Renewal of collection.

Frequency of Response: On occasion.

Affected Public: Exporters of products that do not comply with Commission requirements.

Estimated Number of Respondents: We estimate that approximately nine notifications will be submitted by seven firms per year. These numbers are commensurate with notification rates before the COVID–19-pandemic's disruption of trade.

Estimated Time per Response: CPSC estimates that the average time for each response is one hour.

Total Estimated Annual Burden: CPSC estimates that a total of nine responses will be submitted each year, and that one hour will be required per response. As a result, CPSC estimates that the total annual burden of this collection is nine hours. The annualized cost to respondents for the information collection is $654.12 (9 hours × $72.68/hour), as estimated from total compensation data available from the U.S. Bureau of Labor Statistics.[1]

General Description of Collection: The Commission has procedures that exporters must follow to notify the Commission of their intent to export products that are banned or fail to comply with an applicable CPSC safety standard, regulation, or statute. Respondents must comply with the requirements in 16 CFR part 1019 and file a statement with the Commission in accordance with these requirements.

Alberta E. Mills,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2024–01371 Filed 1–24–24; 8:45 am]

BILLING CODE 6355–01–P

[1] Total hourly compensation for workers in management professional and related occupations in goods-producing industries is estimated by the U.S. Bureau of Labor Statistics to be $72.68: Employer Costs for Employee Compensation, March 2023, Table 4: (*https://www.bls.gov/news.release/archives/ecec_06162023.pdf*).

CONSUMER PRODUCT SAFETY COMMISSION

[Docket No. CPSC–2010–0056]

Agency Information Collection Activities; Extension of Approval of Information Collection; Safety Standard for Bicycle Helmets

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of information collection; request for comment.

SUMMARY: As required by the Paperwork Reduction Act of 1995, the Consumer Product Safety Commission (CPSC or Commission) announces that the Commission has submitted to the Office of Management and Budget (OMB) a request for extension of approval for a collection of information relating to the Safety Standard for Bicycle Helmets. OMB previously approved the collection of information under Control Number 3041–0127. OMB's most recent extension of approval will expire on January 31, 2024. On November 15, 2023, CPSC published a notice in the **Federal Register** to announce the agency's intention to seek extension of approval of the collection of information. The Commission received no comments. Therefore, by publication of this notice, the Commission announces that CPSC has submitted to the OMB a request for extension of approval of that collection of information.

DATES: Submit comments on the collection of information by February 26, 2024.

ADDRESSES: Submit comments about this request by email: *OIRA_submission@omb.eop.gov* or fax: 202–395–6881. Comments by mail should be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the CPSC, Office of Management and Budget, Room 10235, 725 17th Street NW, Washington, DC 20503. In addition, written comments that are sent to OMB also should be submitted electronically at *www.regulations.gov,* under Docket No. CPSC–2010–0056.

FOR FURTHER INFORMATION CONTACT: Cynthia Gillham, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; (301) 504–7791, or by email to: *pra@cpsc.gov.*

SUPPLEMENTARY INFORMATION: CPSC seeks to extend the following collection of information:

Title: Safety Standard for Bicycle Helmets.

OMB Number: 3041–0127.

Type of Review: Extension of collection.

Frequency of Response: On occasion.

Affected Public: Manufacturers and importers of bicycle helmets.

Estimated Number of Respondents: The Commission estimates that 38 manufacturers and importers will issue certificates on an estimated total of 200 models annually, including both older models and new models.

Estimated Time per Response: The Commission estimates that manufacturers and importers will require four hours per model for recordkeeping and certification activities each year.

Total Estimated Annual Burden: CPSC estimates that manufacturers and importers will conduct recordkeeping and reporting activities for a total of 200 models, and that a total of four hours will be required per model. As a result, CPSC estimates that the total annual burden of this collection is 800 hours. The annualized cost to respondents for the information collection is $26,944 (800 hours x $33.68/hour), as estimated from total compensation data available from the U.S. Bureau of Labor Statistics.[1]

General Description of Collection: The Commission's safety standard for bicycle helmets (16 CFR part 1203) includes requirements for labeling and instructions. The standard also requires that manufacturers and importers of bicycle helmets subject to the standard issue certificates of compliance based on a reasonable testing program. Every person issuing certificates of compliance must maintain records of their testing so the Commission can verify that the testing was conducted properly. Respondents must comply with the requirements in 16 CFR part 1203 for labeling and instructions, testing, certification, and recordkeeping.

Alberta E. Mills,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2024–01374 Filed 1–24–24; 8:45 am]

BILLING CODE 6355–01–P

[1] Total hourly compensation for office and administrative support occupations in goods-producing industries is estimated by the U.S. Bureau of Labor Statistics to be $33.68: Employer Costs for Employee Compensation, March 2023, Table 4: (*https://www.bls.gov/news.release/archives/ecec_06162023.pdf*).

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; AmeriCorps External Reviewer Survey

AGENCY: Corporation for National and Community Service.

ACTION: Notice of information collection; request for comment.

SUMMARY: The Corporation for National and Community Service, operating as AmeriCorps, has submitted a public information collection request (ICR) entitled AmeriCorps External Reviewer Survey for review and approval in accordance with the Paperwork Reduction Act.

DATES: Written comments must be submitted to the individual and office listed in the **ADDRESSES** section by February 26, 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: Copies of this ICR, with applicable supporting documentation, may be obtained by contacting Patti Stengel, (202) 815–5791, or by email at *pstengel@americorps.gov.*

SUPPLEMENTARY INFORMATION: The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of CNCS, 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;
- Propose ways to enhance the quality, utility, and clarity of the information to be collected; and
- Propose ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments

A 60-day Notice requesting public comment was published in the **Federal Register** on November 3, 2023 at 88 FR 75564. The comment period ended January 2, 2024. No public comments were received.

Title of Collection: AmeriCorps External Reviewer Survey.

OMB Control Number: 3045–0192.

Type of Review: Revision.

Respondents/Affected Public: Individuals.

Total Estimated Number of Annual Responses: 300.

Total Estimated Number of Annual Burden Hours: 75.

Abstract: AmeriCorps seeks to revise the current information collection to update the survey instrument. The External Reviewer Survey is used by individuals who have served as External Reviewers or External Panel Coordinators for AmeriCorps to review grant applications. AmeriCorps uses the collected information to assess and make improvements to its grant competitions. The information is collected electronically. The revisions are intended to make the survey more user-friendly by separating out each component of the question for which responses are sought, increasing the number of response choices, and eliminating inapplicable questions. The information collection will otherwise be used in the same manner as the existing application. The currently approved information collection is due to expire on March 31, 2024. AmeriCorps seeks to continue using the current survey until the revised version is approved by OMB.

Iyauta Green,

Director, Office of Grant Administration.

[FR Doc. 2024–01482 Filed 1–24–24; 8:45 am]

BILLING CODE 6050–28–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Notice of Federal Advisory Committee Meeting—Defense Advisory Committee on Investigation, Prosecution, and Defense of Sexual Assault in the Armed Forces

AGENCY: General Counsel of the Department of Defense, 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 Advisory Committee on Investigation, Prosecution, and Defense of Sexual Assault in the Armed Forces (DAC–IPAD) will take place.

DATES: Wednesday, February 21, 2024—Open to the public from 12:30 p.m. to 1:30 p.m. EST.

ADDRESSES: This meeting will be held virtually. The meeting can be accessed virtually via the following dial-in number and links: Dial-in: (669) 254–5252/(646) 828–7666, Meeting ID: 161 327 2379, Passcode: 615243. Link: *https://www.zoomgov.com/j/1613272379?pwd=ZHlLSU5maS9ZV3ZSREZOdllMVmdkdz09*, Meeting ID: 161 327 2379, Passcode: 615243.

FOR FURTHER INFORMATION CONTACT: Dwight Sullivan, 703–695–1055 (Voice), *dwight.h.sullivan.civ@mail.mil* (Email). Mailing address is DACIPAD, One Liberty Center, 875 N. Randolph Street, Suite 150, Arlington, Virginia 22203. Website: *http://dacipad.whs.mil/.* The most up-to-date changes to the meeting agenda can be found on the website.

SUPPLEMENTARY INFORMATION: This meeting is being held under the provisions of chapter 10 of title 5 United States Code (U.S.C.) (formerly the Federal Advisory Committee Act (FACA) of 1972 (5 U.S.C., App.)), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.140 and 102–3.150.

Purpose of the Meeting: In section 546 of the National Defense Authorization Act (NDAA) for Fiscal Year 2015 (Pub. L. 113–291), as modified by section 537 of the NDAA for Fiscal Year 2016 (Pub. L. 114–92), Congress tasked the DAC–IPAD to advise the Secretary of Defense on the investigation, prosecution, and defense of allegations of rape, forcible sodomy, sexual assault, and other sexual misconduct involving members of the Armed Forces. This will be the thirty-third public meeting held by the DAC–IPAD. At this meeting the Committee will conduct deliberations on the sixth annual report and receive a staff briefing on military installation site visits and plans for future meetings.

Agenda: 12:30 p.m.–1:05 p.m. Opening Remarks; Discussion, Deliberations, and Voting on Sixth Annual Report; 1:05 p.m.–1:30 p.m. Staff briefing on Military Installation Site Visits and Plans for Future Meetings; 1:30 Public Meeting Adjourned.

Meeting Accessibility: Pursuant to 41 CFR 102–3.140 and 5 U.S.C. 1009(a)(1), the public or interested organizations may submit written comments to the DAC–IPAD about its mission and topics pertaining to this public meeting.

Written comments must be received by the DAC–IPAD at least five (5) business days prior to the meeting date so that they may be made available to the DAC–IPAD members for their consideration prior to the meeting. Written comments should be submitted via email to the DAC–IPAD at *whs.pentagon.em.mbx.dacipad@mail.mil* in the following formats: Adobe Acrobat or Microsoft Word. Please note that since the DAC–IPAD operates under the provisions of the FACA, all written comments will be treated as public documents and will be made available for public inspection.

Written Statements: Pursuant to 41 CFR 102–3.140 and 5 U.S.C. 1009(a)(3), interested persons may submit a written statement to the DAC–IPAD. Individuals submitting a statement must submit their statement no later than 5:00 p.m. EST, Tuesday, February 20, 2024, to Dwight Sullivan, 703–695–1055 (Voice), 703–693–3903 (Facsimile), *dwight.h.sullivan.civ@mail.mil* (Email). If a statement pertaining to a specific topic being discussed at the planned meeting is not received by Tuesday, February 20, 2024, then it may not be provided to, or considered by, the Committee during the February 21, 2024 meeting. The Designated Federal Officer will review all timely submissions with the DAC–IPAD Chair and ensure such submissions are provided to the members of the DAC–IPAD before the meeting. Any comments received by the DAC–IPAD prior to the stated deadline will be posted on the DAC–IPAD website (*http://dacipad.whs.mil/*).

Dated: January 22, 2024.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2024–01492 Filed 1–24–24; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Revised Non-Foreign Overseas Per Diem Rates

AGENCY: Defense Human Resources Activity, Department of Defense (DoD).

ACTION: Notice of revised per diem rates in non-foreign areas Outside the Continental United States (OCONUS).

SUMMARY: Defense Human Resources Activity publishes this Civilian Personnel Per Diem Bulletin Number 325. Bulletin Number 325 lists current per diem rates prescribed for reimbursement of subsistence expenses while on official Government travel to Alaska, Hawaii, the Commonwealth of Puerto Rico, and the possessions of the United States. The Fiscal Year (FY) 2024 lodging rate review for Alaska resulted in rate changes for multiple locations.

DATES: The updated rates take effect February 1, 2024.

FOR FURTHER INFORMATION CONTACT: Mr. David Maly, 571–372–1316, *david.j.maly.civ@mail.mil.*

SUPPLEMENTARY INFORMATION: This document notifies the public of revisions in per diem rates prescribed by the Per Diem, Travel, and Transportation Allowance Committee for travel to non-foreign areas OCONUS. The FY 2024 lodging rate review for Alaska resulted in lodging rate increases for multiple locations. Bulletin Number 325 is published in the **Federal Register** to ensure that Government travelers outside the DoD are notified of revisions to the current reimbursement rates.

If you believe the lodging, meal or incidental allowance rate for a locality listed in the following table is insufficient, you may request a rate review for that location. For more information about how to request a review, please see the Defense Travel Management Office's Per Diem Rate Review Frequently Asked Questions (FAQ) page at *https://www.travel.dod.mil/Travel-Transportation-Rates/Per-Diem/.*

Dated: January 22, 2024.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

State or territory	Locality	Season start	Season end	Lodging	M&IE	Total per diem	Effective date
ALASKA	[OTHER]	01/01	12/31	230	121	351	02/01/2024
ALASKA	ADAK	01/01	12/31	230	121	351	02/01/2024
ALASKA	ANCHORAGE	05/01	08/31	279	145	424	02/01/2024
ALASKA	ANCHORAGE	09/01	04/30	229	145	374	02/01/2024
ALASKA	BARROW	05/01	08/31	301	129	430	02/01/2024
ALASKA	BARROW	09/01	04/30	266	129	395	02/01/2024
ALASKA	BARTER ISLAND LRRS	01/01	12/31	230	121	351	02/01/2024
ALASKA	BETHEL	01/01	12/31	230	101	331	02/01/2024
ALASKA	BETTLES	01/01	12/31	230	121	*351	02/01/2024
ALASKA	CAPE LISBURNE LRRS	01/01	12/31	230	121	351	02/01/2024
ALASKA	CAPE NEWENHAM LRRS	01/01	12/31	230	121	351	02/01/2024
ALASKA	CAPE ROMANZOF LRRS	01/01	12/31	230	121	351	02/01/2024
ALASKA	CLEAR AB	01/01	12/31	230	121	351	02/01/2024
ALASKA	COLD BAY	01/01	12/31	230	121	351	02/01/2024
ALASKA	COLD BAY LRRS	01/01	12/31	230	121	351	02/01/2024
ALASKA	COLDFOOT	01/01	12/31	249	93	342	02/01/2024
ALASKA	COPPER CENTER	01/01	12/31	230	121	351	02/01/2024
ALASKA	CORDOVA	01/01	12/31	230	106	336	02/01/2024
ALASKA	CRAIG	05/01	09/30	274	94	368	02/01/2024
ALASKA	CRAIG	10/01	04/30	179	94	273	02/01/2024
ALASKA	DEADHORSE	01/01	12/31	230	121	*351	02/01/2024
ALASKA	DELTA JUNCTION	01/01	12/31	230	106	336	02/01/2024
ALASKA	DENALI NATIONAL PARK	05/01	09/30	274	118	392	02/01/2024
ALASKA	DENALI NATIONAL PARK	10/01	04/30	179	118	297	02/01/2024
ALASKA	DILLINGHAM	01/01	12/31	320	113	433	02/01/2024
ALASKA	DUTCH HARBOR-UNALASKA	01/01	12/31	230	129	359	02/01/2024
ALASKA	EARECKSON AIR STATION	01/01	12/31	146	74	220	02/01/2024
ALASKA	EIELSON AFB	05/16	09/30	254	108	362	02/01/2024
ALASKA	EIELSON AFB	10/01	05/15	179	108	287	02/01/2024
ALASKA	ELFIN COVE	01/01	12/31	230	121	351	02/01/2024
ALASKA	ELMENDORF AFB	05/01	08/31	279	145	424	02/01/2024
ALASKA	ELMENDORF AFB	09/01	04/30	229	145	374	02/01/2024
ALASKA	FAIRBANKS	05/16	09/30	254	108	362	02/01/2024
ALASKA	FAIRBANKS	10/01	05/15	179	108	287	02/01/2024
ALASKA	FORT YUKON LRRS	01/01	12/31	230	121	351	02/01/2024
ALASKA	FT. GREELY	01/01	12/31	230	106	336	02/01/2024

State or territory	Locality	Season start	Season end	Lodging	M&IE	Total per diem	Effective date
ALASKA	FT. RICHARDSON	05/01	08/31	279	145	424	02/01/2024
ALASKA	FT. RICHARDSON	09/01	04/30	229	145	374	02/01/2024
ALASKA	FT. WAINWRIGHT	05/16	09/30	254	108	362	02/01/2024
ALASKA	FT. WAINWRIGHT	10/01	05/15	179	108	287	02/01/2024
ALASKA	GAMBELL	01/01	12/31	230	121	351	02/01/2024
ALASKA	GLENNALLEN	01/01	12/31	230	121	351	02/01/2024
ALASKA	HAINES	01/01	12/31	230	113	343	02/01/2024
ALASKA	HEALY	05/01	09/30	274	118	392	02/01/2024
ALASKA	HEALY	10/01	04/30	179	118	297	02/01/2024
ALASKA	HOMER	05/01	09/30	274	124	398	02/01/2024
ALASKA	HOMER	10/01	04/30	179	124	303	02/01/2024
ALASKA	JB ELMENDORF-RICHARDSON	05/01	08/31	279	145	424	02/01/2024
ALASKA	JB ELMENDORF-RICHARDSON	09/01	04/30	229	145	374	02/01/2024
ALASKA	JUNEAU	02/01	10/31	274	118	392	02/01/2024
ALASKA	JUNEAU	11/01	01/31	214	118	332	02/01/2024
ALASKA	KAKTOVIK	01/01	12/31	230	121	*351	02/01/2024
ALASKA	KAVIK CAMP	01/01	12/31	230	121	*351	02/01/2024
ALASKA	KENAI-SOLDOTNA	05/01	10/31	274	113	387	02/01/2024
ALASKA	KENAI-SOLDOTNA	11/01	04/30	179	113	292	02/01/2024
ALASKA	KENNICOTT	01/01	12/31	230	121	351	02/01/2024
ALASKA	KETCHIKAN	05/01	09/30	275	118	393	02/01/2024
ALASKA	KETCHIKAN	10/01	04/30	160	118	278	02/01/2024
ALASKA	KING SALMON	01/01	12/31	230	121	351	02/01/2024
ALASKA	KING SALMON LRRS	01/01	12/31	230	121	351	02/01/2024
ALASKA	KLAWOCK	01/01	12/31	230	94	324	02/01/2024
ALASKA	KODIAK	02/01	10/31	231	109	340	02/01/2024
ALASKA	KODIAK	11/01	01/31	138	109	247	02/01/2024
ALASKA	KOTZEBUE	01/01	12/31	230	121	351	02/01/2024
ALASKA	KULIS AGS	05/01	08/31	279	145	424	02/01/2024
ALASKA	KULIS AGS	09/01	04/30	229	145	374	02/01/2024
ALASKA	MCCARTHY	01/01	12/31	230	121	351	02/01/2024
ALASKA	MCGRATH	01/01	12/31	230	121	*351	02/01/2024
ALASKA	MURPHY DOME	05/16	09/30	254	108	362	02/01/2024
ALASKA	MURPHY DOME	10/01	05/15	179	108	287	02/01/2024
ALASKA	NOME	05/01	08/31	274	118	392	02/01/2024
ALASKA	NOME	09/01	04/30	242	118	360	02/01/2024
ALASKA	NOSC ANCHORAGE	05/01	08/31	279	145	424	02/01/2024
ALASKA	NOSC ANCHORAGE	09/01	04/30	229	145	374	02/01/2024
ALASKA	NUIQSUT	01/01	12/31	230	121	*351	02/01/2024
ALASKA	OLIKTOK LRRS	01/01	12/31	230	121	351	02/01/2024
ALASKA	PALMER	05/01	09/30	274	131	405	02/01/2024
ALASKA	PALMER	10/01	04/30	196	131	327	02/01/2024
ALASKA	PETERSBURG	01/01	12/31	230	108	338	02/01/2024
ALASKA	POINT BARROW LRRS	01/01	12/31	230	121	351	02/01/2024
ALASKA	POINT HOPE	01/01	12/31	230	121	*351	02/01/2024
ALASKA	POINT LONELY LRRS	01/01	12/31	230	121	351	02/01/2024
ALASKA	PORT ALEXANDER	01/01	12/31	230	121	*351	02/01/2024
ALASKA	PORT ALSWORTH	01/01	12/31	230	121	351	02/01/2024
ALASKA	PRUDHOE BAY	01/01	12/31	230	121	*351	02/01/2024
ALASKA	SELDOVIA	05/01	09/30	274	124	398	02/01/2024
ALASKA	SELDOVIA	10/01	04/30	179	124	303	02/01/2024
ALASKA	SEWARD	04/01	09/30	284	164	448	02/01/2024
ALASKA	SEWARD	10/01	03/31	179	164	343	02/01/2024
ALASKA	SITKA-MT. EDGECUMBE	05/01	09/30	274	116	390	02/01/2024
ALASKA	SITKA-MT. EDGECUMBE	10/01	04/30	199	116	315	02/01/2024
ALASKA	SKAGWAY	05/01	09/30	274	118	392	02/01/2024
ALASKA	SKAGWAY	10/01	04/30	179	118	297	02/01/2024
ALASKA	SLANA	01/01	12/31	230	121	351	02/01/2024
ALASKA	SPARREVOHN LRRS	01/01	12/31	230	121	351	02/01/2024
ALASKA	SPRUCE CAPE	03/01	09/30	274	109	383	02/01/2024
ALASKA	SPRUCE CAPE	10/01	02/28	179	109	288	02/01/2024
ALASKA	ST. GEORGE	01/01	12/31	230	121	351	02/01/2024
ALASKA	TALKEETNA	01/01	12/31	230	123	353	02/01/2024
ALASKA	TANANA	05/01	08/31	274	118	392	02/01/2024
ALASKA	TANANA	09/01	04/30	242	118	360	02/01/2024
ALASKA	TATALINA LRRS	01/01	12/31	230	121	351	02/01/2024
ALASKA	TIN CITY LRRS	01/01	12/31	230	121	351	02/01/2024
ALASKA	TOK	01/01	12/31	230	113	343	02/01/2024
ALASKA	VALDEZ	05/16	09/15	274	110	384	02/01/2024
ALASKA	VALDEZ	09/16	05/15	179	110	289	02/01/2024
ALASKA	WAINWRIGHT	01/01	12/31	295	77	372	02/01/2024
ALASKA	WASILLA	06/01	09/30	274	104	378	02/01/2024
ALASKA	WASILLA	10/01	05/31	179	104	283	02/01/2024
ALASKA	WRANGELL	05/01	09/30	275	118	393	02/01/2024
ALASKA	WRANGELL	10/01	04/30	160	118	278	02/01/2024
ALASKA	YAKUTAT	06/01	09/30	350	111	461	02/01/2024
ALASKA	YAKUTAT	10/01	05/31	179	111	290	02/01/2024
AMERICAN SAMOA	AMERICAN SAMOA	01/01	12/31	149	103	252	05/01/2023
AMERICAN SAMOA	PAGO PAGO	01/01	12/31	149	103	252	05/01/2023
GUAM	GUAM (INCL ALL MIL INSTAL)	01/01	12/31	159	124	283	02/01/2023
GUAM	JOINT REGION MARIANAS (ANDERSEN).	01/01	12/31	159	124	283	02/01/2023
GUAM	JOINT REGION MARIANAS (NAVAL BASE).	01/01	12/31	159	124	283	02/01/2023

State or territory	Locality	Season start	Season end	Lodging	M&IE	Total per diem	Effective date
GUAM	TAMUNING	01/01	12/31	159	124	283	02/01/2023
HAWAII	[OTHER]	01/01	12/31	229	157	386	02/01/2023
HAWAII	CAMP H M SMITH	01/01	12/31	202	157	359	02/01/2023
HAWAII	CNI NAVMAG PEARL HARBOR-HICKAM.	01/01	12/31	202	157	359	02/01/2023
HAWAII	FT. DERUSSEY	01/01	12/31	202	157	359	02/01/2023
HAWAII	FT. SHAFTER	01/01	12/31	202	157	359	02/01/2023
HAWAII	HICKAM AFB	01/01	12/31	202	157	359	02/01/2023
HAWAII	HONOLULU	01/01	12/31	202	157	359	02/01/2023
HAWAII	ISLE OF HAWAII: HILO	01/01	12/31	199	146	345	02/01/2023
HAWAII	ISLE OF HAWAII: LOCATIONS OTHER THAN HILO.	01/01	12/31	229	173	402	02/01/2023
HAWAII	ISLE OF KAUAI	01/01	12/31	325	165	490	02/01/2023
HAWAII	ISLE OF LANAI	01/01	12/31	229	157	386	02/01/2023
HAWAII	ISLE OF MAUI	01/01	12/31	354	153	507	02/01/2023
HAWAII	ISLE OF MOLOKAI	01/01	12/31	229	157	386	02/01/2023
HAWAII	ISLE OF OAHU	01/01	12/31	202	157	359	02/01/2023
HAWAII	JB PEARL HARBOR-HICKAM	01/01	12/31	202	157	359	02/01/2023
HAWAII	KAPOLEI	01/01	12/31	202	157	359	02/01/2023
HAWAII	KEKAHA PACIFIC MISSILE RANGE FAC.	01/01	12/31	325	165	490	03/01/23
HAWAII	KILAUEA MILITARY CAMP	01/01	12/31	199	146	345	02/01/2023
HAWAII	LIHUE	01/01	12/31	325	165	490	02/01/2023
HAWAII	MCB HAWAII	01/01	12/31	202	157	359	02/01/2023
HAWAII	NCTAMS PAC WAHIAWA	01/01	12/31	202	157	359	02/01/2023
HAWAII	NOSC PEARL HARBOR	01/01	12/31	202	157	359	02/01/2023
HAWAII	PEARL HARBOR	01/01	12/31	202	157	359	02/01/2023
HAWAII	PMRF BARKING SANDS	01/01	12/31	325	165	490	02/01/2023
HAWAII	SCHOFIELD BARRACKS	01/01	12/31	202	157	359	02/01/2023
HAWAII	TRIPLER ARMY MEDICAL CENTER.	01/01	12/31	202	157	359	02/01/2023
HAWAII	WHEELER ARMY AIRFIELD	01/01	12/31	202	157	359	02/01/2023
MIDWAY ISLANDS	MIDWAY ISLANDS	01/01	12/31	125	81	206	05/01/2023
NORTHERN MARIANA ISLANDS	ROTA	01/01	12/31	130	125	255	05/01/2023
NORTHERN MARIANA ISLANDS	SAIPAN	01/01	12/31	161	113	274	05/01/2023
NORTHERN MARIANA ISLANDS	TINIAN	01/01	12/31	145	95	240	05/01/2023
PUERTO RICO	[OTHER]	01/01	12/31	159	100	259	05/01/2021
PUERTO RICO	AGUADILLA	01/01	12/31	149	90	239	05/01/2021
PUERTO RICO	BAYAMON	12/01	05/31	195	115	310	05/01/2021
PUERTO RICO	BAYAMON	06/01	11/30	167	115	282	05/01/2021
PUERTO RICO	CAROLINA	12/01	05/31	195	115	310	05/01/2021
PUERTO RICO	CAROLINA	06/01	11/30	167	115	282	05/01/2021
PUERTO RICO	CEIBA	01/01	12/31	159	110	269	05/01/2021
PUERTO RICO	CULEBRA	01/01	12/31	159	105	264	05/01/2021
PUERTO RICO	FAJARDO [INCL ROOSEVELT RDS NAVSTAT].	01/01	12/31	159	110	269	05/01/2021
PUERTO RICO	FT. BUCHANAN [INCL GSA SVC CTR, GUAYNABO].	12/01	05/31	195	115	310	05/01/2021
PUERTO RICO	FT. BUCHANAN [INCL GSA SVC CTR, GUAYNABO].	06/01	11/30	167	115	282	05/01/2021
PUERTO RICO	HUMACAO	01/01	12/31	159	110	269	05/01/2021
PUERTO RICO	LUIS MUNOZ MARIN IAP AGS	12/01	05/31	195	115	310	05/01/2021
PUERTO RICO	LUIS MUNOZ MARIN IAP AGS	06/01	11/30	167	115	282	05/01/2021
PUERTO RICO	LUQUILLO	01/01	12/31	159	110	269	05/01/2021
PUERTO RICO	MAYAGUEZ	01/01	12/31	109	94	203	05/01/2021
PUERTO RICO	PONCE	01/01	12/31	149	130	279	05/01/2021
PUERTO RICO	RIO GRANDE	01/01	12/31	169	85	254	05/01/2021
PUERTO RICO	SABANA SECA [INCL ALL MILITARY].	12/01	05/31	195	115	310	05/01/2021
PUERTO RICO	SABANA SECA [INCL ALL MILITARY].	06/01	11/30	167	115	282	05/01/2021
PUERTO RICO	SAN JUAN & NAV RES STA	12/01	05/31	195	115	310	05/01/2021
PUERTO RICO	SAN JUAN & NAV RES STA	06/01	11/30	167	115	282	05/01/2021
PUERTO RICO	VIEQUES	01/01	12/31	159	94	253	05/01/2021
VIRGIN ISLANDS (U.S.)	ST. CROIX	05/01	10/31	247	115	362	10/01/2023
VIRGIN ISLANDS (U.S.)	ST. CROIX	11/01	04/30	299	115	414	10/01/2023
VIRGIN ISLANDS (U.S.)	ST. JOHN	04/15	12/15	274	150	424	10/01/2023
VIRGIN ISLANDS (U.S.)	ST. JOHN	12/16	04/14	364	150	514	10/01/2023
VIRGIN ISLANDS (U.S.)	ST. THOMAS	04/15	12/15	274	150	424	10/01/2023
VIRGIN ISLANDS (U.S.)	ST. THOMAS	12/16	04/14	364	150	514	10/01/2023
WAKE ISLAND	WAKE ISLAND	01/01	12/31	133	73	206	05/01/2023

*Where meals are included in the lodging rate, a traveler is only allowed a meal rate on the first and last day of travel.

[FR Doc. 2024–01490 Filed 1–24–24; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board; Notice of Federal Advisory Committee Meeting; Cancellation

AGENCY: Under Secretary of Defense for Research and Engineering, Department of Defense (DoD).

ACTION: Notice of Federal Advisory Committee meeting; cancellation.

SUMMARY: On January 18, 2024, the DoD published a notice announcing a Federal Advisory Committee meeting of the Defense Science Board (DSB) that was to take place on January 18, 2024. The meeting has been cancelled.

DATES: Cancelled; open to the public Thursday, January 18, 2024, from 3 p.m. to 3:45 p.m.

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: Due to circumstances beyond the control of the Designated Federal Officer and the Department of Defense, the Defense Science Board was unable to provide public notification required by 41 CFR 102–3.150(a) concerning the cancellation of its January 18, 2024 meeting. Accordingly, the Advisory Committee Management Officer for the Department of Defense, pursuant to 41 CFR 102–3.150(b), waives the 15-calendar day notification requirement.

On January 18, 2024 (89 FR 3386), the DoD published a notice announcing a Federal Advisory Committee meeting of the Defense Science Board (DSB) that was to take place on January 18, 2024. The meeting has been cancelled. The meeting will be re-scheduled for a later date and an updated notice published in the **Federal Register**.

Dated: January 19, 2024.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2024–01402 Filed 1–24–24; 8:45 am]

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DEPARTMENT OF EDUCATION

Applications for New Awards; Personnel Development To Improve Services and Results for Children With Disabilities Program—Preservice Program Development Grants at Historically Black Colleges and Universities, Tribally Controlled Colleges and Universities, and Other Minority Serving Institutions To Diversify Personnel Serving Children With Disabilities

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Notice.

SUMMARY: The Department of Education (Department) is issuing a notice inviting applications for new awards for fiscal year (FY) 2024 for Personnel Development to Improve Services and Results for Children with Disabilities Program—Preservice Development Grants at Historically Black Colleges and Universities, Tribally Controlled Colleges and Universities, and Other Minority Serving Institutions to Diversify Personnel Serving Children with Disabilities, Assistance Listing Number 84.325X. This notice relates to the approved information collection under OMB control number 1820–0028.

DATES:

Applications Available: January 25, 2024.

Deadline for Transmittal of Applications: April 4, 2024.

Deadline for Intergovernmental Review: June 3, 2024.

Pre-Application Webinar Information: No later than January 30, 2024, the Office of Special Education Programs and Rehabilitative Services will post pre-recorded informational webinars designed to provide technical assistance (TA) to interested applicants. The webinars may be found at *https://www2.ed.gov/fund/grant/apply/osep/new-osep-grants.html.*

ADDRESSES: For the addresses for obtaining and submitting an application, please refer to our Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on December 7, 2022 (87 FR 75045) and available at *www.federalregister.gov/documents/2022/12/07/2022-26554/common-instructions-for-applicants-to-department-of-education-discretionary-grant-programs.*

FOR FURTHER INFORMATION CONTACT: Tracie Dickson, U.S. Department of Education, 400 Maryland Avenue SW, Room 4A10 Washington, DC 20202. Telephone: (202) 245–7844. Email: *Tracie.Dickson@ed.gov.*

If you are deaf, hard of hearing, or have a speech disability and wish to access telecommunications relay services, please dial 7–1–1.

SUPPLEMENTARY INFORMATION:

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The purposes of this program are to (1) help address State-identified needs for personnel preparation in special education, early intervention, related services, and regular education to work with children, including infants, toddlers, and youth with disabilities; and (2) ensure that those personnel have the necessary skills and knowledge, derived from practices that have been determined through scientifically based research, to be successful in serving those children.

Priority: This competition includes one absolute priority. In accordance with 34 CFR 75.105(b)(2)(v), the absolute priority is from allowable activities specified in the statute (see sections 662 and 681 of the Individuals with Disabilities Education Act (IDEA) (20 U.S.C. 1462 and 1481)).

Absolute Priority: For FY 2024 and any subsequent year in which we make awards from the list of unfunded applications from this competition, this priority is an absolute priority. Under 34 CFR 75.105(c)(3), we consider only applications that meet this priority.

This priority is:

Preservice Development Grants at Historically Black Colleges and Universities, Tribally Controlled Colleges and Universities, and Other Minority Serving Institutions To Diversify Personnel Serving Children With Disabilities.

Background:

Special education and related services personnel are at the top of the critical shortage list in educational systems in nearly every State, especially in urban areas (U.S. Department of Education, 2023b; American Speech Language Hearing Association, n.d.; National Coalition on Personnel Shortages in Special Education and Related Services, n.d.). In a national survey of Part C State coordinators, 98 percent of respondents indicated that they had shortages of personnel to work in their early intervention system (IDEA Infant and Toddler Coordinators Association, 2021). These shortages impede the ability of children with disabilities to reach their full potential (Center on Great Teachers and Leaders, 2023a). Compounding the issue is the critical shortage of early intervention, special

education, and related services personnel who are multilingual and racially, ethnically, and culturally diverse (Center on Great Teachers and Leaders, 2023a). For example, the Office of Special Education Program's (OSEP's) Personnel Development Program Data Collection System data show that graduates of OSEP-supported early intervention and special education doctoral programs were 78 percent White, 5 percent Hispanic, 6 percent Black, 6 percent Asian, and 5 percent unreported, which does not match the demographics of children (U.S. Department of Education, Office of Special Education Programs (OSEP), 2021).

Enhancing equity within early intervention and special education systems requires a specific focus on preservice preparation so that the future workforce has the competencies to support the developmental and learning needs of children with disabilities, including the increasing population of children with disabilities who are multilingual and racially, ethnically, and culturally diverse (Center on Great Teachers and Leaders, 2023b). Diversifying the workforce can have positive impacts on all children. All children, and particularly multilingual children and children from racially and ethnically diverse backgrounds, with and without disabilities, demonstrate improved academic achievement and behavioral and social and emotional development when they receive services from personnel who are multilingual and from racially, ethnically, and culturally diverse backgrounds (Kunemund et al., 2020).

Historically Black Colleges and Universities (HBCUs), Tribally Controlled Colleges and Universities (TCCUs), and other Minority Serving Institutions (MSIs) have the experience and expertise to recruit, prepare, and graduate students who are multilingual and racially, ethnically, and culturally diverse. However, there are currently a limited number of HBCUs, TCCUs, and other MSIs that operate the programs required to train the number of students needed to address the critical shortage. Therefore, there is a need to increase the number of early intervention, early childhood special education, special education, and related services programs in HBCUs, TCCUs, and other MSIs. For example, of all Black teachers nationwide, nearly half are graduates of HBCUs (U.S. Department of Education, 2023a). Yet, of the 103 HBCUs, only 27 offer a special education preparation program (Patterson et al., 2022). There are currently 32 fully accredited TCCUs (National Indian Education Association, n.d.), with nine offering bachelor's degrees in early childhood education, eight offering bachelor's degrees in general education, and only one offering a bachelor's degree in special education. Additionally, many special education programs at HBCUs and MSIs focus on high-incidence disabilities and do not offer degree programs that prepare graduates to serve children with high-intensity needs, such as sensory disabilities. As an example, since 2006, OSEP has only awarded two grants to HBCUs to prepare teachers of students with visual impairments (TVIs) and only five grants to MSIs to prepare TVIs. Additionally, only one HBCU currently offers a degree preparing teachers of students who are deaf or hard of hearing and teachers of students who are DeafBlind.

To address shortages and diversify the workforce in early intervention, early childhood special education, special education, and related services personnel, HBCUs, TCCUs, and MSIs need support to develop associate's, bachelor's, certificate, master's, educational specialist, and clinical doctoral degree level programs (Escobar et al., 2021; Murray et al., 2022; Lamb, 2016). To increase the number of personnel who are fully credentialed and licensed to enter the field to serve children with disabilities and their families, including multilingual personnel and personnel from racially and ethnically diverse backgrounds, this grant competition plans to award grants to HBCUs, TCCUs, and MSIs to develop new degree and certification programs in early intervention, early childhood special education, special education, and related services. This priority aligns with the Secretary's Supplemental Priority 3—Supporting a Diverse Educator Workforce and Professional Growth to Strengthen Student Learning, published in the **Federal Register** on December 10, 2021 (86 FR 70612).

Priority:

The purpose of this priority is to fund Preservice Development Grants at HBCUs,[1] TCCUs,[2] and MSIs [3] to Diversify Personnel Serving Children with Disabilities. OSEP may fund out of rank order applications from HBCUs and TCCUs to increase the number of funded applications from these institutions. Projects are expected to achieve, at a minimum, the following expected outcomes:

(a) Increased number of early intervention, early childhood special education, special education, or related services [4] personnel who are multilingual and from racially and ethnically diverse backgrounds, and who have the competencies to work with infants, toddlers, children and youth (children) with disabilities and their families within early intervention, early childhood programs, or school settings;

(b) Increased variety of degrees, including associate degrees, bachelor's degrees, master's degrees, educational specialist degrees, and clinical doctorate degrees, and certifications [5] in early intervention, early childhood special education, special education, and related services offered at HBCUs, TCCUs, and MSIs; and

(c) Increased faculty capacity at HBCUs, TCCUs, and MSIs to design and deliver programs of study in early intervention, early childhood special education, special education, and related services.

In addition to these programmatic requirements, to be considered for funding under this priority, applicants must meet the application and administrative requirements in this priority, which are:

(a) Demonstrate, in the narrative section of the application under ''Significance,'' how—

(1) The proposed project will address the need in the field to increase the number of personnel in the proposed

[1] For purposes of this priority, ''Historically Black Colleges and Universities'' means colleges and universities that meet the criteria set out in 34 CFR 608.2.

[2] For purposes of this priority, ''Tribally Controlled Colleges and Universities'' has the meaning ascribed to it in section 316(b)(3) of the Higher Education Act of 1965 (HEA).

[3] For purposes of this priority, ''Minority-Serving Institution'' 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. For purposes of this priority, the Department will use the FY 2023 Eligibility Matrix to determine MSI eligibility (see *https://www2.ed.gov/about/offices/list/ope/idues/eligibility.html*).

[4] For the purposes of this priority, ''related services'' includes the following: speech-language pathology and audiology services; assistive technology services; sign language interpreting services; intervener services; psychological services; applied behavior analysis; physical therapy and occupational therapy; recreation, including therapeutic recreation; artistic and cultural services, including music, art, dance and movement therapy; social work services; counseling services, including rehabilitation counseling; and orientation and mobility services.

[5] For the purposes of this priority, ''certification'' refers to programs of study for individuals with bachelor's, master's, educational specialist, or clinical doctoral degrees that lead to licensure, endorsement, or certification from a State or national credentialing authority following completion of the degree program that qualifies graduates to teach or provide services to children with disabilities. Programs of study that lead to a certificate of completion awarded from an institution of higher education (IHE), but do not lead to licensure, endorsement, or certification from a State or national credentialing authority, do not qualify.

degree or certification area—including those who are multilingual and from racially and ethnically diverse backgrounds—who are fully qualified to serve children with disabilities and their families and provide equitable, evidence-based,[6] culturally and linguistically responsive instruction, interventions, and services, that improve outcomes for children with disabilities—including children of color with disabilities and children with disabilities who are multilingual—and support their full and equitable participation, development, and learning.

To meet this requirement, the applicant must provide information demonstrating that it has successfully graduated students from an education or related services program that is related to the degree or certification being proposed, including data on the number of students who have graduated in the last five years disaggregated by race, national origin, disability status, and primary language(s).

(b) Demonstrate, in the narrative section of the application under ''Quality of project services,'' how the project will—

(1) Develop a plan to create a new associate degree, bachelor's degree, certification, master's degree, educational specialist degree, or clinical doctoral degree program in early intervention, early childhood special education, special education, or related services during the first 24 months of the project. To address this requirement, the applicant must describe the approach that will be used to—-

(i) Develop a curriculum, including coursework and field or clinical practicum experiences, and academic requirements for the proposed degree or certification to prepare early intervention, early childhood special education, special education, or related services personnel to provide effective and equitable, evidence-based, culturally and linguistically responsive instruction, interventions, and services, that improve outcomes for children with disabilities, including those who are multilingual and from racially and ethnically diverse backgrounds. The applicant must describe—

(A) The components of the proposed curriculum such as coursework, field or practicum experience, and other requirements; and the anticipated time to complete the degree or certification program;

(B) How it will identify and incorporate current research, evidence-based practices, and State and national professional organization personnel standards in the development and delivery of the curriculum;

(ii) Determine the knowledge and competencies students will acquire in the proposed program, including knowledge and competencies necessary to provide effective and equitable, evidence-based, culturally and linguistically responsive instruction, interventions, and services, that improve outcomes for children with disabilities, including children with disabilities who are multilingual and from racially and ethnically diverse backgrounds;

(iii) Develop partnerships with field placement and clinical practicum sites to prepare early intervention, early childhood special education, special education, or related services personnel to provide effective and equitable, evidence-based, culturally and linguistically responsive instruction, interventions, and services in inclusive setting, that improve outcomes for children with disabilities, including children with disabilities who are multilingual and from racially and ethnically diverse backgrounds;

(iv) Establish admission and enrollment plans, including setting first-year enrollment targets and overall steady-state program enrollment; setting admission requirements and the admissions process; and developing recruitment and retention plans to attract students, including those who are multilingual and from racially and ethnically diverse backgrounds;

(v) Advise and mentor students, including those who are multilingual and those from racially and ethnically diverse backgrounds to support their successful completion of the degree or certification program; and

(vi) Develop the capacity of faculty and staff to develop a new degree or certification program; and

(2) Have the structures in place to implement the new degree or certification program by year four of the project. To meet this requirement, the applicant must describe the proposed approach to—

(i) Ensuring that faculty and staff have the capacity to implement the new degree or certification program;

(ii) Developing a leadership plan that describes the role of faculty, including the department chair or director, in implementing the new degree or certification program, including implementation of the admissions process, recruitment strategies, degree requirements, and advising and mentoring; and

(iii) Ensuring the sustainability of the project once Federal funding ends.

(c) Demonstrate, in the narrative section of the application under ''Quality of the project personnel and quality of management plan,'' how—

(1) The proposed project will encourage applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability, as appropriate;

(2) The project director and key project personnel have the qualifications and experience to carry out the proposed activities and achieve the project's intended outcomes;

(3) The proposed project will approach identifying a sufficient number of faculty with active records of content expertise, research, and teaching experience, including faculty who are multilingual and from racially and ethnically diverse backgrounds, aligned to the new degree or certification program;

(4) The project director and other key project personnel will manage the components of the project;

(5) The time commitments of the project director and other key project personnel are adequate to meet the objectives of the proposed project;

(6) The proposed management plan will ensure that the project will meet the proposed objectives and the degree or certification program will be of high quality; and

(7) The proposed project will benefit from a diversity of perspectives, including faculty, community partners, current and prospective students, families of children with disabilities, and early intervention, early childhood and school personnel, among others, in its development and operation.

(d) Demonstrate, in the narrative section of the application under ''Adequacy of resources,'' how—

(1) The applicant and any key partners have adequate resources to carry out the proposed activities; and

(2) The budget is adequate for meeting the project objectives.

(e) Demonstrate, in the narrative section of the application under ''Quality of the project evaluation,'' how the applicant will—

(1) Evaluate how well the goals or objectives of the proposed project have been met. To meet this requirement the applicant must provide—

[6] For the purposes of this priority, ''evidence-based'' means, at a minimum, evidence that demonstrates a rationale (as defined in 34 CFR 77.1), where a key project component (as defined in 34 CFR 77.1) included in the project's logic model (as defined in 34 CFR 77.1) is informed by research or evaluation findings that suggest the project component is likely to improve relevant outcomes (as defined in 34 CFR 77.1).

(i) Measurable intended project outcomes;

(ii) In Appendix A, the logic model by which the proposed project will achieve its intended project outcomes that depicts, at minimum, the goals, activities, outputs, and outcomes;

(iii) In Appendix A, the conceptual framework underlying the new degree or certification program, project plans and activities, describing any underlying concepts, assumptions, expectations, beliefs, or theories, as well as the presumed relationships or linkages among these variables, and any empirical support for this framework; and

(iv) The evaluation methodologies, data collection methods, and data analyses that will be used.

(f) In the appendices or narrative under ''Required project assurances'' the applicant must—

(1) Include in Appendix A, charts, tables, figures, graphs, screen shots and visuals that provide information directly relating to the application requirements for the narrative. Appendix A should not be used for supplementary information. Please note that charts, tables, figures, graphs, or screen shots, can be single-spaced when placed in Appendix A;

(2) Include in Appendix B any letters of commitment or support. The applicant must include a letter of commitment from the dean or designee of the school or college where the program will be administratively located affirming support for the proposal. In addition, deans or designees, chairs, and directors of academic units contributing courses, faculty effort, funding, space, or other resources for the proposed program must provide letters of support that confirm these commitments;

(3) Ensure that if the project maintains a website, it will be of high quality, with an easy-to-navigate design that meets or exceeds government or industry-recognized standards for accessibility;

(4) Include in the budget, attendance at a three-day project directors' conference in Washington, DC, during each year of the project period. The project must reallocate funds for travel to the project directors' meeting no later than the end of the third quarter of each budget period if the meeting is conducted virtually; and

(5) Provide an assurance that the project—

(i) Will submit the curriculum and syllabi for courses in the new degree or certification program, the admissions plan, the student recruitment plan, the plan for advising and mentoring students, and the roles of faculty and staff in the program when requested by OSEP; and

(2) Will participate in collaboration meetings with other grantees funded under ALN 84.325X and will engage with OSEP-funded TA centers as appropriate.

Third, Fourth, and Fifth Years of Project

The Secretary may extend a project three years beyond the initial two years of the project if the grantee is achieving the intended outcomes of the project. By the end of the second year of the project, the grantee must have a new degree or certification plan approved by the university. By the end of the third year of the project, the grantee must have the infrastructure in place to begin recruiting students for the program. By the end of the fourth year of the project, the grantee must admit students and begin delivering the new degree or certification program. Each applicant must include in its application a plan and a budget for the full 60-month period. In deciding whether to extend funding for years three, four, and five of the project, the Secretary will consider the requirements of 34 CFR 75.253(a) and will consider the success and timeliness with which the intended outcomes of the project requirements have been, or are being, met by the project.

References

American Speech Language Hearing Association. (n.d.). *Recruiting and retaining qualified school-based SLPs. www.asha.org/careers/recruitment/schools/.*

Center on Great Teachers and Leaders. (2023a). *Prioritizing an integrated approach to educator shortages and workforce diversity, Part 1: An effective workforce is a diverse workforce. www.air.org/sites/default/files/2023-10/Prioritizing-Integrated-Approach-Educator-Shortages-Workforce-Diversity-Part-1-October-2023-v2.pdf.*

Center on Great Teachers and Leaders. (2023b). *Prioritizing an integrated approach to educator shortages and workforce diversity, Part 2: Innovative Strategies and Examples Across the Talent Development Continuum. www.air.org/sites/default/files/2023-10/Prioritizing-Integrated-Approach-Educator-Shortages-Workforce-Diversity-Part-2-October-2023-v2.pdf.*

Escobar, M., Bell, Z.K., Qazi, M., Kotoye, C.O., & Arcediano, F. (2021). Faculty time allocation at historically black universities and its relationship to institutional expectations. *Frontiers in Psychology, 12,* 734426. *https://doi.org/10.3389/fpsyg.2021.734426.*

IDEA Infant and Toddler Coordinators Association. (2021). *Tipping points survey: Demographics, challenges, and opportunities. www.ideainfanttoddler.org/pdf/2021-Tipping-Points-Survey.pdf.*

Kunemund, R., McCullough, S., Williams, C., Miller, C., Sutherland, K., Conroy, M., & Granger, K. (2020). The mediating role of teacher self-efficacy in the relation between teacher-child race mismatch and conflict. *Psychology in the Schools, 57*(11), 1757–1770. *https://doi.org/10.1002/pits.22419.*

Lamb, C. (Spring, 2016). Struggle and Success: The state of teacher education at tribal colleges and universities. *Tribal College Journal of the American Indian Higher Education, 27*(3). *https://tribalcollegejournal.org/struggle-and-success-the-state-of-teacher-education-at-tribal-colleges-and-universities/.*

Murray, L., Njoku, N. & Davis, R. (2022). *Greater funding, greater needs: A report on funding for HBCUs.* UNCF. *https://cdn.uncf.org/wp-content/uploads/UNCF-Patterson-HBCUs-funding-report_V6.pdf?_ga=2.91635802.1540279182.1698942294-1282596027.1679956576.*

National Coalition on Personnel Shortages in Special Education. (n.d.) *About the shortage. https://specialedshortages.org/about-the-shortage/.*

National Indian Education Association. (n.d.). *Information on Native Students. www.niea.org/native-education-research.*

Patterson, M.S., Wilder, T.L., Tazi, Y., Holman, K., Grace, B., Grays. A., Marino, M.T., Carter, R., & Perkins, M. (2022). *Recruitment through Interaction and Strategic Enrollment: RISE Special Education.* Toni Jennings Exceptional Education Institute. *www.tjeei.org/map.*

U.S. Department of Education. (2023a). *Fact Sheet. www.ed.gov/news/press-releases/fact-sheet-biden-harris-administration-highlights-record-championing-historically-black-colleges-and-universities-hbcus.*

U.S. Department of Education. (2023b). *Raise the Bar Policy Brief: Eliminating educator shortages through increased compensation, high-quality and affordable educator preparation and teacher leadership. www.ed.gov/raisethebar/eliminating-educator-shortages-compensation-preparation-leadership.*

U.S. Department of Education, Office of Special Education Programs. (2021). *Personnel Development Program Data Collection System.*

Waiver of Proposed Rulemaking: Under the Administrative Procedure Act (APA) (5 U.S.C. 553), the Department generally offers interested parties the opportunity to comment on proposed priorities. Section 681(d) of IDEA, however, makes the public comment requirements of the APA inapplicable to the priority in this notice.

Program Authority: 20 U.S.C. 1462 and 1481.

Note: Projects will be awarded and must be operated in a manner consistent with the nondiscrimination

requirements contained in Federal civil rights laws.

Applicable Regulations: (a) The Education Department General Administrative Regulations in 34 CFR parts 75, 77, 79, 81, 82, 84, 86, 97, 98, and 99. (b) The Office of Management and Budget Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474. (d) The regulations for this program in 34 CFR part 304.

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian Tribes.

Note: The regulations in 34 CFR part 86 apply to IHEs only.

II. Award Information

Type of Award: Cooperative agreement.

Estimated Available Funds: The Administration has requested $250,000,000 for the Personnel Development to Improve Services and Results for Children with Disabilities program for FY 2024, of which we intend to use an estimated $2,400,000 for this competition. The actual level of funding, if any, depends on final congressional action. However, we are inviting applications to allow enough time to complete the grant process if Congress appropriates funds for this program.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in FY 2025 from the list of unfunded applications from this competition.

Estimated Range of Awards: $125,000–$150,000 per year.

Estimated Average Size of Awards: $137,500 per year.

Maximum Award: We will not make an award exceeding $750,000 per project for a project period of 60 months.

Note: Applicants must describe, in their applications, the amount of funding being requested for each 12-month budget period.

Estimated Number of Awards: 16.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

III. Eligibility Information

1. *Eligible Applicants:* HBCUs, TCCUs, MSIs, and private nonprofit organizations that have legal authority to enter into grants and cooperative agreements with the federal government on behalf of an HBCU, TCCU, or MSI.

Note: If you are a nonprofit organization, under 34 CFR 75.51, you may demonstrate your nonprofit status by providing: (1) proof that the Internal Revenue Service currently recognizes the applicant as an organization to which contributions are tax deductible under section 501(c)(3) of the Internal Revenue Code; (2) a statement from a State taxing body or the State attorney general certifying that the organization is a nonprofit organization operating within the State and that no part of its net earnings may lawfully benefit any private shareholder or individual; (3) a certified copy of the applicant's certificate of incorporation or similar document if it clearly establishes the nonprofit status of the applicant; or (4) any item described above if that item applies to a State or national parent organization, together with a statement by the State or parent organization that the applicant is a local nonprofit affiliate.

2. a. *Cost Sharing or Matching:* This competition does not require cost sharing or matching.

b. *Indirect Cost Rate Information:* This program uses an unrestricted indirect cost rate. For more information regarding training indirect cost rates, see 34 CFR 75.562. For more information regarding indirect costs, or to obtain a negotiated indirect cost rate, please see *https://www2.ed.gov/about/offices/list/ocfo/intro.html.*

c. *Administrative Cost Limitation:* This program does not include any program-specific limitation on administrative expenses. All administrative expenses must be reasonable and necessary and conform to Cost Principles described in 2 CFR part 200 subpart E of the Uniform Guidance.

3. *Subgrantees:* Under 34 CFR 75.708(b) and (c) a grantee under this competition may award subgrants—to directly carry out project activities described in its application—to the following types of entities: IHEs, nonprofit organizations suitable to carry out the activities proposed in the application, and other public agencies. The grantee may award subgrants to entities it has identified in an approved application or that it selects through a competition under procedures established by the grantee.

4. *Other General Requirements:*

(a) Recipients of funding under this competition must make positive efforts to employ and advance in employment qualified individuals with disabilities (see section 606 of IDEA).

(b) Applicants for, and recipients of, funding must, with respect to the aspects of their proposed project relating to the absolute priority, involve individuals with disabilities, or parents of individuals with disabilities ages birth through 26, in planning, implementing, and evaluating the project (see section 682(a)(1)(A) of IDEA).

IV. Application and Submission Information

1. *Application Submission Instructions:* Applicants are required to follow the Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on December 7, 2022 (87 FR 75045) and available at *www.federalregister.gov/documents/2022/12/07/2022-26554/common-instructions-for-applicants-to-department-of-education-discretionary-grant-programs,* which contain requirements and information on how to submit an application.

2. *Intergovernmental Review:* This competition is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this competition.

3. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

4. *Recommended Page Limit:* The application narrative is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. We recommend that you (1) limit the application narrative to no more than 50 pages and (2) use the following standards:

- A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double-space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, reference citations, and captions, as well as all text in charts, tables, figures, graphs, and screen shots.
- Use a font that is 12 point or larger.
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial.

The recommended page limit does not apply to the cover sheet; the budget section, including the narrative budget justification; the assurances and certifications; or the abstract (follow the guidance provided in the application package for completing the abstract), the table of contents, the list of priority

requirements, the resumes, the reference list, the letters of support, or the appendices. However, the recommended page limit does apply to all of the application narrative, including all text in charts, tables, figures, graphs, and screen shots.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this competition are from 34 CFR 75.210 and are listed below:

(a) *Significance (10 points).*

(1) The Secretary considers the significance of the proposed project.

(2) In determining the significance of the proposed project, the Secretary considers the following factors:

(i) The extent to which the proposed project will prepare personnel for fields in which shortages have been demonstrated; and

(ii) The importance or magnitude of the results or outcomes likely to be attained by the proposed project, especially improvements in teaching and student achievement.

(b) *Quality of project services (45 points).*

(1) The Secretary considers the quality of the services to be provided by the proposed project.

(2) In determining the quality of the services to be provided by the proposed project, the Secretary considers the quality and sufficiency of strategies for ensuring equal access and treatment for eligible project participants who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability.

(3) In addition, the Secretary considers the following factors:

(i) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable;

(ii) The extent to which the services to be provided by the proposed project reflect up-to-date knowledge from research and effective practice; and

(iii) The extent to which the training or professional development services to be provided by the proposed project are of sufficient quality, intensity, and duration to lead to improvements in practice among the recipients of those services.

(c) *Quality of project personnel and quality of management plan (20 points).*

(1) The Secretary considers the quality of the personnel who will carry out the proposed project and the quality of the management plan for the proposed project.

(2) In determining the quality of project personnel, the Secretary considers the extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability.

(3) In addition, the Secretary considers the following factors:

(i) The qualifications, including relevant training and experience, of key project personnel;

(ii) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks;

(iii) The extent to which the time commitments of the project director and principal investigator and other key project personnel are appropriate and adequate to meet the objectives of the proposed project; and

(iv) The adequacy of mechanisms for ensuring high-quality products and services from the proposed project.

(d) *Adequacy of resources (10 points).*

(1) The Secretary considers the adequacy of resources for the proposed project.

(2) In determining the adequacy of resources for the proposed project, the Secretary considers the following factors:

(i) The adequacy of support, including facilities, equipment, supplies, and other resources, from the applicant organization or the lead applicant organization; and

(ii) The extent to which the costs are reasonable in relation to the objectives, design, and potential significance of the proposed project.

(e) *Quality of the project evaluation (15 points).*

(1) The Secretary considers the quality of the evaluation to be conducted of the proposed project.

(2) In determining the quality of the evaluation, the Secretary considers the following factors:

(i) The extent to which the methods of evaluation are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project; and

(ii) The extent to which the methods of evaluation will provide performance feedback and permit periodic assessment of progress toward achieving intended outcomes.

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary requires various assurances, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

3. *Additional Review and Selection Process Factors:* In the past, the Department has had difficulty finding peer reviewers for certain competitions because so many individuals who are eligible to serve as peer reviewers have conflicts of interest. The standing panel requirements under section 682(b) of IDEA also have placed additional constraints on the availability of reviewers. Therefore, the Department has determined that for some discretionary grant competitions, applications may be separated into two or more groups and ranked and selected for funding within specific groups. This procedure will make it easier for the Department to find peer reviewers by ensuring that greater numbers of individuals who are eligible to serve as reviewers for any particular group of applicants will not have conflicts of interest. It also will increase the quality, independence, and fairness of the review process, while permitting panel members to review applications under discretionary grant competitions for which they also have submitted applications.

4. *Risk Assessment and Specific Conditions:* Consistent with 2 CFR 200.206, before awarding grants under this competition the Department conducts a review of the risks posed by applicants. Under 2 CFR 200.208, the Secretary may impose specific conditions, and under 2 CFR 3474.10, in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

5. *Integrity and Performance System:* If you are selected under this competition to receive an award that over the course of the project period may exceed the simplified acquisition threshold (currently $250,000), under 2 CFR 200.206(a)(2) we must make a judgment about your integrity, business

ethics, and record of performance under Federal awards—that is, the risk posed by you as an applicant—before we make an award. In doing so, we must consider any information about you that is in the integrity and performance system (currently referred to as the Federal Awardee Performance and Integrity Information System (FAPIIS)), accessible through the System for Award Management. You may review and comment on any information about yourself that a Federal agency previously entered and that is currently in FAPIIS.

Please note that, if the total value of your currently active grants, cooperative agreements, and procurement contracts from the Federal Government exceeds $10,000,000, the reporting requirements in 2 CFR part 200, Appendix XII, require you to report certain integrity information to FAPIIS semiannually. Please review the requirements in 2 CFR part 200, Appendix XII, if this grant plus all the other Federal funds you receive exceed $10,000,000.

6. *In General:* In accordance with the Office of Management and Budget's guidance located at 2 CFR part 200, all applicable Federal laws, and relevant Executive guidance, the Department will review and consider applications for funding pursuant to this notice inviting applications in accordance with:

(a) Selecting recipients most likely to be successful in delivering results based on the program objectives through an objective process of evaluating Federal award applications (2 CFR 200.205);

(b) Prohibiting the purchase of certain telecommunication and video surveillance services or equipment in alignment with section 889 of the National Defense Authorization Act of 2019 (Pub. L. 115–232) (2 CFR 200.216);

(c) Providing a preference, to the extent permitted by law, to maximize use of goods, products, and materials produced in the United States (2 CFR 200.322); and

(d) Terminating agreements in whole or in part to the greatest extent authorized by law if an award no longer effectuates the program goals or agency priorities (2 CFR 200.340).

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also. If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Open Licensing Requirements:* Unless an exception applies, if you are awarded a grant under this competition, you will be required to openly license to the public grant deliverables created in whole, or in part, with Department grant funds. When the deliverable consists of modifications to pre-existing works, the license extends only to those modifications that can be separately identified and only to the extent that open licensing is permitted under the terms of any licenses or other legal restrictions on the use of pre-existing works.

Additionally, a grantee 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 Department has established a set of performance measures, including long-term measures, that are designed to yield information on various aspects of the effectiveness and quality of the Personnel Development to Improve Services and Results for Children with Disabilities program. These measures include (1) the percentage of preparation programs that incorporate scientifically based research or evidence-based practices (EBPs) into their curricula; and (2) the percentage of scholars entering the preparation program who will be knowledgeable and skilled in EBPs that improve outcomes for children with disabilities.

The measures apply to projects funded under this competition, and grantees are required to submit data on these measures as directed by OSEP.

Grantees will be required to report information on their project's performance in annual and final performance reports to the Department (34 CFR 75.590).

The Department will also closely monitor the extent to which the products and services provided by the project meet needs identified by stakeholders and may require the project to report on such alignment in its annual and final performance reports.

6. *Continuation Awards:* In making a continuation award under 34 CFR 75.253, the Secretary considers, among other things: whether a grantee has made substantial progress in achieving the goals and objectives of the project; whether the grantee has expended funds in a manner that is consistent with its approved application and budget; and, if the Secretary has established performance measurement requirements, whether the grantee has made substantial progress in achieving the performance targets in the grantee's approved application.

In making a continuation award, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Other Information

Accessible Format: On request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document and a copy of the application package in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or

text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, or compact disc, or other accessible format.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at *www.govinfo.gov.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Danté Allen,

Commissioner, Rehabilitation Services Administration, Office of Special Education and Rehabilitative Services.

[FR Doc. 2024–01413 Filed 1–24–24; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2024–SCC–0015]

Agency Information Collection Activities; Comment Request; U.S. Department of Education Build America, Buy America Act (BABAA) Data Collection

AGENCY: Office of Finance and Operations (OFO), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Department is proposing a new information collection request (ICR).

DATES: Interested persons are invited to submit comments on or before March 25, 2024.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2024–SCC–0015. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the *regulations.gov* site is not available to the public for any reason, the Department will temporarily accept comments at *ICDocketMgr@ed.gov*. Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. Please note that comments submitted after the comment period will not be accepted. Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Strategic Collections and Clearance Governance and Strategy Division, U.S. Department of Education, 400 Maryland Ave. SW, LBJ, Room 4C210, Washington, DC 20202–8240.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Pedro Romero, 202–453–7886.

SUPPLEMENTARY INFORMATION: The Department, in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. The Department is soliciting comments on the proposed information collection request (ICR) that is described below. 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: U.S. Department of Education Build America, Buy America Act (BABAA) Data Collection.

OMB Control Number: 1894–NEW.

Type of Review: A new ICR.

Respondents/Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 470.

Total Estimated Number of Annual Burden Hours: 4,700.

Abstract: In accordance with section 70914 of the Build America Buy America Act (Pub. L. 117–58, Sec. 70901–70953) (BABAA), grantees funded under Department of Education (the Department) programs that allow funds to be used for infrastructure projects (infrastructure programs), *i.e.,* construction and broadband infrastructure, may not use their grant funds for these infrastructure projects or activities unless they comply with the following BABAA sourcing requirements:

1. All iron and steel used in the infrastructure project or activity are produced in the United States.

2. All manufactured products used in the infrastructure project or activity are produced in the United States.

3. All construction materials are manufactured in the United States.

The Department may, in accordance with sections 70914(b) and (d), 70921(b), 70935, and 70937 of BABAA, and the Office of Management and Budget Memorandum M 24–02, Implementation Guidance on Application of Buy America Preference in Federal Financial Assistance Programs for Infrastructure, approve waivers to BABAA sourcing requirements under programs it has identified as infrastructure programs when it determines that exceptions to these requirements apply. The Department may approve these waivers, subject to notice and comment requirements and the Office of Management and Budget Made in America Office (MIAO) review.

The information submitted by grantees using the BABAA Data Collection Form will be used by the Department to track the type of waivers (*i.e.,* agency level waivers or approved grantee waivers) implemented by grantees. The data may also be used for reporting purposes.

Dated: January 22, 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. 2024–01500 Filed 1–24–24; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2023–SCC–0194]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Statewide Family Engagement Centers—Annual Performance Reporting Form

AGENCY: Office of Elementary and Secondary Education (OESE), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Department is proposing an extension without change of a currently approved information collection request (ICR).

DATES: Interested persons are invited to submit comments on or before February 26, 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 Andrew Brake, 202–453–6136.

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: Statewide Family Engagement Centers—Annual Performance Reporting Form.

OMB Control Number: 1810–0750.

Type of Review: An extension without change of a currently approved ICR.

Respondents/Affected Public: State, local, and Tribal governments.

Total Estimated Number of Annual Responses: 20.

Total Estimated Number of Annual Burden Hours: 600.

Abstract: This is a request for an extension of an approved information collection to collect the Annual Performance Report (APR) for the Statewide Family Engagement Centers (SFEC) program. There is an increase in the number of respondents and total burden hours due to an adjustment to the estimated number of respondents. The collection of this information is part of the government-wide effort to improve the performance and accountability of all federal programs. Under the Uniform Guidance and EDGAR, recipients of federal awards are required to submit performance and financial expenditure information. The program-level performance measures and budget information for the SFEC program are reported in the APR. The APR is required under 2 CFR 200.328 and 34 CFR75.118 and 75.590. It provides data on the status of funded projects that correspond to the scope and objectives established in the approved applications and any amendments. To ensure that accurate and reliable data are reported to Congress on program implementation and performance outcomes, the SFEC APR collects data from grantees in a consistent format to calculate these data in the aggregate.

Dated: January 22, 2024.

Kun Mullan,

PRA Coordinator, Strategic Collections and Clearance, Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2024–01433 Filed 1–24–24; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2023–SCC–0192]

Department of Education Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Entry Evidence and Evaluation & Exit Evidence Forms; Correction

AGENCY: Office for Finance and Operations (OFO), Department of Education (ED).

ACTION: Notice; correction.

On January 22, 2024, the U.S. Department of Education published a 30-day comment period notice in the **Federal Register** with FR Doc. 2024–01107 (89 FR 3916, column 1, column 2) seeking public comment for an information collection entitled, ''Entry Evidence and Evaluation and Exit Evidence Forms''. The Department will revise related information collection forms. A new 30-day public comment notice will be published.

The PRA Coordinator, Strategic Collections and Clearance, Office of the Chief Data Officer, Office of Planning, Evaluation and Policy Development, hereby issues a correction notice as required by the Paperwork Reduction Act of 1995.

Dated: January 22, 2024.

Stephanie Valentine,

PRA Coordinator, Strategic Collections and Clearance, Office of the Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2024–01444 Filed 1–24–24; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL24–52–000]

Lyons Solar, LLC; Notice of Institution of Section 206 Proceeding and Refund Effective Date

On January 18, 2024, the Commission issued an order in Docket No. EL24–52–000 pursuant to section 206 of the Federal Power Act (FPA), 16 U.S.C. 824e, instituting an investigation to determine whether Lyons Solar, LLC's proposed rate schedule [1] is unjust, unreasonable, unduly, discriminatory or preferential, or otherwise unlawful.

[1] Lyons Solar, LLC, Reactive Power Tariff, Lyons Solar, Reactive Power Tariff (0.2.0).

Lyons Solar, LLC, 186 FERC ¶ 61,049 (2024).

The refund effective date in Docket No. EL24–52–000, established pursuant to section 206(b) of the FPA, will be the date of publication of this notice in the **Federal Register**.

Any interested person desiring to be heard in Docket No. EL24–52–000 must file a notice of intervention or motion to intervene, as appropriate, with the Federal Energy Regulatory Commission, in accordance with Rule 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.214 (2022), within 21 days of the date of issuance of the order.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field. User assistance is available for eLibrary and the FERC's website during normal business hours from FERC Online Support at 202–502–6652 (toll free at 1–866–208–3676) or email at *ferconlinesupport@ferc.gov,* or the Public Reference Room at (202) 502–8371, TTY (202) 502–8659. Email the Public Reference Room at *public.referenceroom@ferc.gov.*

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFile'' link at *http://www.ferc.gov.* In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Debbie-Anne A. Reese, Acting Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Debbie-Anne A. Reese, Acting Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

The 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 19, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–01462 Filed 1–24–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER24–936–000]

Keenesburg 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 Keenesburg 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 February 8, 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 19, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–01474 Filed 1–24–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL24–51–000]

Nestlewood Solar 1 LLC; Notice of Institution of Section 206 Proceeding and Refund Effective Date

On January 18, 2024, the Commission issued an order in Docket No. EL24–51–000, pursuant to section 206 of the Federal Power Act (FPA), 16 U.S.C. 824e, instituting an investigation to determine whether Nestlewood Solar 1 LLC's Rate Schedule is unjust, unreasonable, unduly discriminatory or

preferential, or otherwise unlawful. *Nestlewood Solar 1 LLC,* 186 FERC ¶ 61,050 (2024).

The refund effective date in Docket No. EL24–51–000, established pursuant to section 206(b) of the FPA, will be the date of publication of this notice in the **Federal Register**.

Any interested person desiring to be heard in Docket No. EL24–51–000 must file a notice of intervention or motion to intervene, as appropriate, with the Federal Energy Regulatory Commission, in accordance with Rule 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.214 (2022), within 21 days of the date of issuance of the order.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. From FERC'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 FERC's website during normal business hours from FERC Online Support at 202–502–6652 (toll free at 1–866–208–3676) or email at *ferconlinesupport@ferc.gov,* or the Public Reference Room at (202) 502–8371, TTY (202) 502–8659. Email the Public Reference Room at *public.referenceroom@ferc.gov.*

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFile'' link at *http://www.ferc.gov.* In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Debbie-Anne A. Reese, Acting Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Debbie-Anne A. Reese, Acting Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

The 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 19, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–01463 Filed 1–24–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC24–8–000]

Commission Information Collection Activities (FERC–598); Comment Request

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of information collection and request for comments.

SUMMARY: In compliance with the requirements of the Paperwork Reduction Act of 1995, the Federal Energy Regulatory Commission (Commission or FERC) is soliciting public comment on the currently approved information collection FERC–598 (Self-Certification for Entities Seeking Exempt Wholesale Generator or Foreign Utility Company Status).

DATES: Comments on the collection of information are due March 25, 2024.

ADDRESSES: You may submit comments (identified by Docket No. IC24–8–000) by any of the following methods:

- *eFiling at Commission's Website: http://www.ferc.gov/docs-filing/efiling.asp.*
- *U.S. Postal Service Mail:* Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.
- Effective July 1, 2020, delivery of filings other than by eFiling or the U.S. Postal Service should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

Instructions: All submissions must be formatted and filed in accordance with submission guidelines at: *http://www.ferc.gov.* For user assistance, contact FERC Online Support by email at: *ferconlinesupport@ferc.gov,* or by phone at: (866) 208–3676 (toll-free).

Docket: Users interested in receiving automatic notification of activity in this docket or in viewing/downloading comments and issuances in this docket may do so at: *https://www.ferc.gov.*

FOR FURTHER INFORMATION CONTACT: Jean Sonneman may be reached by email at *DataClearance@FERC.gov* or by telephone at (202) 502–6362.

SUPPLEMENTARY INFORMATION:

Title: FERC–598, Self-Certification for Entities Seeking Exempt Wholesale Generator or Foreign Utility Company Status.

OMB Control No.: 1902–0166.

Type of Request: Three-year renewal of FERC–598.

Abstract: Under 42 U.S.C. 16452(a), public utility holding companies and their associates must maintain, and make available to the Commission, certain books, accounts, memoranda, and other records. The pertinent records are those that the Commission has determined: (1) are relevant to costs incurred by a public utility or natural gas company that is an associate company of such holding company; and (2) are necessary or appropriate for the protection of utility customers with respect to jurisdictional rates.

Public utility holding companies and their associates may seek exemption from this requirement. The pertinent statutory and regulatory provisions, 42 U.S.C. 16454 and 18 CFR 366.7, authorize such entities to file with the Commission a notice of self-certification demonstrating that they are ''exempt wholesale generators'' (EWGs) or ''foreign utility companies'' (FUCOs). If the Commission takes no action on a good-faith self-certification filing within 60 days after the date of filing, the applicant is exempt from the requirements of 42 U.S.C. 16452(a).

An EWG is defined as ''any person engaged directly, or indirectly through one or more affiliates . . . and exclusively in the business of owning or operating, or both owning and operating, all or part of one or more eligible facilities and selling electric energy at wholesale.'' [1] A FUCO is defined as ''any company that owns or operates facilities that are not located in any state and that are used for the generation, transmission, or distribution of electric energy for sale or the distribution at retail of natural or manufactured gas for heat, light, or power, if such company: (1) derives no part of its income, directly or indirectly, from the generation, transmission, or distribution of electric energy for sale or the distribution at retail of natural or

[1] 18 CFR 366.1.

manufactured gas for heat, light, or power, within the United States; and (2) [n]either the company nor any of its subsidiary companies is a public-utility company operating in the United States.'' [2]

In the case of EWGs, the person filing a notice of self-certification must also file a copy of the notice of self-certification with the state regulatory authority of the state in which the facility is located. In addition, that person must represent to the Commission in its submission that it has filed a copy of the notice with the appropriate state regulatory authority.[3]

Type of Respondents: EWGs and FUCOs.

Estimate of Annual Burden: [4] The Commission estimates the total annual burden and cost [5] for this information collection as follows.

FERC–598

[Self-certification for entities seeking exempt wholesale generator status or foreign utility company status]

A. Number of respondents (EWGs and FUCOs)	B. Annual number of responses per respondent	C. Total number of responses (Column A × Column B)	D. Average burden hrs. & cost ($) per response	E. Total annual burden hours & total annual cost (Column C × Column D)	F. Average cost per respondent ($) (Column E ÷ Column 1)
300	1	300	6 hrs.; $600	1,800 hrs.; $180,000	$600

Comments: Comments are invited on: (1) whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate 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.

Dated: January 18, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–01381 Filed 1–24–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 3240–040—New Hampshire Rolfe Canal Hydroelectric Project; Project No. 6689–018—New Hampshire Penacook Upper Falls Hydroelectric Project; Project No. 3342–025—New Hampshire Penacook Lower Falls Hydroelectric Project]

Briar Hydro Associates, LLC; Notice of Waiver Period for Water Quality Certification Application

On November 28, 2023, Briar Hydro Associates, LLC submitted to the Federal Energy Regulatory Commission (Commission) a copy of its applications for Clean Water Act section 401(a)(1) water quality certifications filed with the New Hampshire Department of Environmental Services, in conjunction with the above captioned projects. Pursuant to 40 CFR 121.6 and section [4.34(b)(5), 5.23(b), 153.4, or 157.22] of the Commission's regulations,[1] we hereby notify the New Hampshire Department of Environmental Services of the following:

Date of Receipt of the Certification Requests: November 28, 2023.

Reasonable Period of Time to Act on the Certification Requests: One year, November 28, 2024.

If the New Hampshire Department of Environmental Services fails or refuses to act on the water quality certification requests on or before the above date, then the agency certifying authority is deemed waived pursuant to section 401(a)(1) of the Clean Water Act, 33 U.S.C. 1341(a)(1).

Dated: January 19, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–01469 Filed 1–24–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER24–935–000]

Frederick 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 Frederick 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 February 8, 2024.

The Commission encourages electronic submission of protests and

[2] *Id.*

[3] 18 CFR 366.7(a).

[4] ''Burden'' is the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. For further explanation of what is included in the information collection burden, refer to 5 CFR 1320.3.

[5] The Commission staff thinks that the average respondent for this collection is similarly situated to the Commission, in terms of salary plus benefits. Based upon FERC's FY 2024 annual full-time equivalent average of $207,786 (for salary plus benefits), the average hourly cost is $100 per hour.

[1] 18 CFR [4.34(b)(5)/5.23(b)/153.4/157.22].

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 19, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–01459 Filed 1–24–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER24–940–000]

Rattlesnake Ridge 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 Rattlesnake Ridge 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 February 8, 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.

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Dated: January 19, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–01470 Filed 1–24–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER24–918–000]

Bristol BESS, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Bristol BESS, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice

and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is February 7, 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.

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Dated: January 18, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–01382 Filed 1–24–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER24–939–000]

Platte Valley 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 Platte Valley 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 February 8, 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.

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Dated: January 19, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–01471 Filed 1–24–24; 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 rate filings:

Docket Numbers: ER24–227–001.

Applicants: RPC Power, LLC.

Description: Tariff Amendment: Response to Deficiency Letter—A&R MBR Tariff Application (ER24–227–) to be effective 1/20/2024.
Filed Date: 1/19/24.
Accession Number: 20240119–5095.
Comment Date: 5 p.m. ET 2/9/24.
Docket Numbers: ER24–813–001.
Applicants: Public Service Company of New Mexico.
Description: Tariff Amendment: Supplemental Information to Revise Depreciation Rates to be effective 1/3/2024.
Filed Date: 1/19/24.
Accession Number: 20240119–5067.
Comment Date: 5 p.m. ET 2/9/24.
Docket Numbers: ER24–944–000.
Applicants: PJM Interconnection, L.L.C.
Description: 205(d) Rate Filing: Amended ISA, Service Agreement No. 6471; Queue No. AE1–020 to be effective 3/18/2024.
Filed Date: 1/18/24.
Accession Number: 20240118–5151.
Comment Date: 5 p.m. ET 2/8/24.
Docket Numbers: ER24–945–000.
Applicants: Cottontail Solar 6, LLC.
Description: Baseline eTariff Filing: Reactive Power Compensation Baseline Filing to be effective 2/26/2024.
Filed Date: 1/18/24.
Accession Number: 20240118–5152.
Comment Date: 5 p.m. ET 2/8/24.
Docket Numbers: ER24–946–000.
Applicants: Desert Sunlight 250, LLC.
Description: 205(d) Rate Filing: Desert Sunlight 250, LLC A&R Co-Tenancy and Shared Facilities Agreement to be effective 1/19/2024.
Filed Date: 1/18/24.
Accession Number: 20240118–5158.
Comment Date: 5 p.m. ET 2/8/24.
Docket Numbers: ER24–947–000.
Applicants: PJM Interconnection, L.L.C.
Description: 205(d) Rate Filing: Amended WMPA, Service Agreement No, 7005; Queue No. AG1–099 to be effective 3/18/2024.
Filed Date: 1/18/24.
Accession Number: 20240118–5161.
Comment Date: 5 p.m. ET 2/8/24.
Docket Numbers: ER24–948–000.
Applicants: PJM Interconnection, L.L.C.
Description: 205(d) Rate Filing: Amended ISA, Service Agreement No. 4322; Queue No. Z1–036 to be effective 3/18/2024.
Filed Date: 1/18/24.
Accession Number: 20240118–5166.
Comment Date: 5 p.m. ET 2/8/24.
Docket Numbers: ER24–949–000.
Applicants: PacifiCorp.
Description: 205(d) Rate Filing: Colstrip Trans System LGIA—Concurrence Clearwater Energy Rev 2 to be effective 12/22/2023.
Filed Date: 1/19/24.
Accession Number: 20240119–5007.
Comment Date: 5 p.m. ET 2/9/24.
Docket Numbers: ER24–950–000.
Applicants: Southern California Edison Company.
Description: 205(d) Rate Filing: 3rd Amended LGIA Desert Sunlight Project TOT198/TOT199 SA #86 to be effective 1/20/2024.
Filed Date: 1/19/24.
Accession Number: 20240119–5032.
Comment Date: 5 p.m. ET 2/9/24.
Docket Numbers: ER24–951–000.
Applicants: New York Independent System Operator, Inc.
Description: 205(d) Rate Filing: NYISO 205: Interconnection and Transmission Study Coordination to be effective 3/20/2024.
Filed Date: 1/19/24.
Accession Number: 20240119–5064.
Comment Date: 5 p.m. ET 2/9/24.
Docket Numbers: ER24–952–000.
Applicants: Alabama Power Company, Georgia Power Company, Mississippi Power Company.
Description: 205(d) Rate Filing: Alabama Power Company submits tariff filing per 35.13(a)(2)(iii: Horus Georgia 2 (Coweta Solar) LGIA Filing to be effective 1/10/2024.
Filed Date: 1/19/24.
Accession Number: 20240119–5085.
Comment Date: 5 p.m. ET 2/9/24.
Docket Numbers: ER24–953–000.
Applicants: Alabama Power Company, Georgia Power Company, Mississippi Power Company.
Description: Tariff Amendment: Alabama Power Company submits tariff filing per 35.15: SE Solar I (Cedartown Solar) LGIA Termination Filing to be effective 1/19/2024.
Filed Date: 1/19/24.
Accession Number: 20240119–5087.
Comment Date: 5 p.m. ET 2/9/24.
Docket Numbers: ER24–954–000.
Applicants: Alabama Power Company, Power Company, Mississippi Power Company.
Description: Tariff Amendment: Alabama Power Company submits tariff filing per 35.15: SE Solar II (Lumberton Solar) LGIA Termination Filing to be effective 1/19/2024.
Filed Date: 1/19/24.
Accession Number: 20240119–5088.
Comment Date: 5 p.m. ET 2/9/24.
Docket Numbers: ER24–955–000.
Applicants: Alabama Power Company, Georgia Power Company, Mississippi Power Company.
Description: Tariff Amendment: Alabama Power Company submits tariff filing per 35.15: SE Solar I (Berry Solar) LGIA Termination Filing to be effective 1/19/2024.
Filed Date: 1/19/24.
Accession Number: 20240119–5089.
Comment Date: 5 p.m. ET 2/9/24.
Docket Numbers: ER24–956–000.
Applicants: New York Independent System Operator, Inc.
Description: 205(d) Rate Filing: NYISO 205 Filing: Amnd Development Agreement NYISO, LS Power, NYPA (SA2514) to be effective 12/28/2023.
Filed Date: 1/19/24.
Accession Number: 20240119–5093.
Comment Date: 5 p.m. ET 2/9/24.
Docket Numbers: ER24–957–000.
Applicants: Franklin Solar LLC.
Description: Baseline eTariff Filing: Market-Based Rate Application to be effective 3/20/2024.
Filed Date: 1/19/24.
Accession Number: 20240119–5099.
Comment Date: 5 p.m. ET 2/9/24.
Docket Numbers: ER24–958–000.
Applicants: PJM Interconnection, L.L.C.
Description: 205(d) Rate Filing: Amendment to 4 Service Agreements re: FirstEnergy Reorganization to be effective 1/1/2024.
Filed Date: 1/19/24.
Accession Number: 20240119–5106.
Comment Date: 5 p.m. ET 2/9/24.
Docket Numbers: ER24–959–000.
Applicants: Public Service Company of Colorado.
Description: 205(d) Rate Filing: 2024–01–19—TSGT—Const Mirage to Saguache—749—Concurrence to be effective 12/1/2023.
Filed Date: 1/19/24.
Accession Number: 20240119–5155.
Comment Date: 5 p.m. ET 2/9/24.
Docket Numbers: ER24–960–000.
Applicants: Public Service Company of Colorado.
Description: 205(d) Rate Filing: 2024–01–19—TSGT Const Plaza to Stanley—759—Concurrence to be effective 12/1/2023.
Filed Date: 1/19/24.
Accession Number: 20240119–5158.
Comment Date: 5 p.m. ET 2/9/24.
Docket Numbers: ER24–961–000.
Applicants: Public Service Company of Colorado.
Description: 205(d) Rate Filing: 2024–01–19 TSGT Const San Luis to Waverly—760—Concurrence to be effective 12/1/2023.
Filed Date: 1/19/24.
Accession Number: 20240119–5160.
Comment Date: 5 p.m. ET 2/9/24.

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.

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Dated: January 19, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–01465 Filed 1–24–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER24–937–000]

Mead 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 Mead 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 February 8, 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.

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Dated: January 19, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–01473 Filed 1–24–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER24–933–000]

Bromley 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 Bromley 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 February 8, 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 19, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–01461 Filed 1–24–24; 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: RP24–329–000.

Applicants: Algonquin Gas Transmission, LLC.

Description: 4(d) Rate Filing: Negotiated Rates—Yankee Gas to Emera Energy eff 1–19–24 to be effective 1/19/2024.

Filed Date: 1/18/24.

Accession Number: 20240118–5052.

Comment Date: 5 p.m. ET 1/30/24.

Docket Numbers: RP24–330–000.

Applicants: Gulf Run Transmission, LLC.

Description: 4(d) Rate Filing: New NRA—Golden Pass LNG Terminal LLC to be effective 2/19/2024.

Filed Date: 1/19/24.

Accession Number: 20240119–5043.

Comment Date: 5 p.m. ET 1/31/24.

Any person desiring to intervene, to protest, or to answer a complaint in any of the above proceedings must file in accordance with Rules 211, 214, or 206 of the Commission's Regulations (18 CFR 385.211, 385.214, or 385.206) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

Filings in Existing Proceedings

Docket Numbers: RP23–840–002.

Applicants: Transcontinental Gas Pipe Line Company, LLC.

Description: Compliance filing: Market-Based Rates_Washington Stor_SA_RP23–840 and RP21–1143 to be effective N/A.

Filed Date: 1/19/24.

Accession Number: 20240119–5078.

Comment Date: 5 p.m. ET 1/31/24.

Any person desiring to protest in any the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

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.

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Dated: January 19, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–01464 Filed 1–24–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER24–938–000]

Parkway 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 Parkway 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 February 8, 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.

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Dated: January 19, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–01472 Filed 1–24–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER24–934–000]

Davis UP 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 Davis UP 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 February 8, 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.

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Dated: January 19, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–01460 Filed 1–24–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 6951–018]

Tallassee Shoals, LLC; Notice of Availability of Environmental Assessment

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR part 380, the Office of Energy Projects has reviewed the application for a new license to continue to operate and maintain the Tallassee Shoals Hydroelectric Project (project). The project is located on the Middle Oconee River, in Athens-Clarke and Jackson Counties, Georgia. Commission staff has prepared an Environmental Assessment (EA) for the project.

The EA contains the staff's analysis of the potential environmental impacts of

the project and concludes that licensing the project, with appropriate environmental protective measures, would not constitute a major federal action that would significantly affect the quality of the human environment.

The Commission provides all interested persons with an opportunity to view and/or print the EA via the internet through the Commission's Home Page (*http://www.ferc.gov/*), using the ''eLibrary'' link. Enter the docket number, excluding the last three digits in the docket number field, to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* or at (866) 208–3676 (toll-free), or (202) 502–8659 (TTY).

You may also register online at *https://ferconline.ferc.gov/FERCOnline.aspx* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

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.*

Any comments should be filed within 30 days from the date of this notice.

The Commission strongly encourages electronic filing. Please file comments using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support. In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Debbie-Anne Reese, Acting Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Debbie-Anne Reese, Acting Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. The first page of any filing should include docket number P–6951–018.

For further information, contact Michael Spencer at 202–502–6093 or *michael.spencer@ferc.gov.*

Dated: January 19, 2024.

Debbie-Anne Reese,

Acting Secretary.

[FR Doc. 2024–01468 Filed 1–24–24; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2007–1196; FRL–11653–01–OAR]

Recent Postings of Broadly Applicable Alternative Test Methods

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: This notice announces the broadly applicable alternative test method approval decisions that the Environmental Protection Agency (EPA) made under and in support of New Source Performance Standards (NSPS) and the National Emission Standards for Hazardous Air Pollutants (NESHAP) between January 1, 2023, and December 31, 2023.

FOR FURTHER INFORMATION CONTACT: An electronic copy of each alternative test method approval document is available at *https://www.epa.gov/emc/broadly-applicable-approved-alternative-test-methods.* For questions about this notice, contact Mr. Steffan Johnson, Air Quality Assessment Division, Office of Air Quality Planning and Standards (E143–02), Environmental Protection Agency, Research Triangle Park, NC 27711; telephone number: (919) 541–4790; email address: *johnson.steffan@epa.gov.* For technical questions about individual alternative test method decisions, refer to the contact person identified in the individual approval document(s).

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this notice apply to me?

This notice will be of interest to entities regulated under 40 Code of Federal Regulations (CFR) parts 59, 60, 61, 63 and 65; state, local, and tribal agencies; and the EPA Regional offices responsible for implementation and enforcement of regulations under 40 CFR parts 59, 60, 61, 63, and 65.

B. How can I get copies of this information?

You may access copies of the broadly applicable alternative test method approval documents at *https://www.epa.gov/emc/broadly-applicable-approved-alternative-test-methods.*

II. Background

This notice identifies broadly applicable alternative test methods that the EPA approved in 2023 under the NSPS, 40 CFR part 60, and the NESHAP and 40 CFR part 63 programs. See Table 1 of this notice for the summary of these test methods. Source owners and operators may voluntarily use these broadly applicable alternative test methods in lieu of otherwise required test methods or related testing procedures. Use of these broadly applicable alternative test methods are not intended to, and should not, change the applicable emission standards.

The Administrator has the authority to approve the use of alternative test methods for compliance with requirements under 40 CFR parts 59, 60, 61, 63, and 65. This authority is found in 40 CFR 60.8(b)(3), 61.13(h)(1)(ii), and 63.7(e)(2)(ii). Additional and similar authority can be found in 40 CFR 59.104(f) and 65.158(a)(2). The criteria for approval and procedures for submission and review of broadly applicable alternative test methods are explained in a previous **Federal Register** notice published at 72 FR 4257 (January 30, 2007) and located at *https://www.epa.gov/emc/broadly-applicable-approved-alternative-test-methods.* As explained in this notice, we will announce approvals for broadly applicable alternative test methods at *https://www.epa.gov/emc/broadly-applicable-approved-alternative-test-methods* as they are issued and publish an annual notice that summarizes approvals for broadly applicable alternative test methods during the preceding year.

As also explained in the January 30, 2007 notice, our approval decisions involve thorough technical reviews of numerous source-specific requests for alternatives and modifications to test methods and procedures. Based on these reviews, we have often found that these modifications or alternatives would be equally valid and appropriate to apply to other sources within a particular class, category, or subcategory. Consequently, we have concluded that where either a method modification or an alternative method is clearly broadly applicable to a class, category, or subcategory of sources, it is both equitable and efficient to

simultaneously approve its use for all appropriate sources and situations.

Use of approved alternative test methods is not mandatory but rather permissive. Sources are not required to employ such a method but may choose to do so in appropriate circumstances. As specified in 40 CFR 63.7(f)(5), however, a source owner or operator electing to use an alternative method for 40 CFR part 63 standards must continue to use the alternative method until otherwise authorized. Source owners or operators should, therefore, review the specific broadly applicable alternative method approval decision at *https://www.epa.gov/emc/broadly-applicable-approved-alternative-test-methods* before electing to employ any alternative method. Source owners or operators choosing to use a broadly applicable alternative should also notify their regulatory agency prior to using the alternative.

III. Approved Alternative Test Methods and Modifications to Test Methods

This notice specifies five broadly applicable alternative test methods that the EPA approved between January 1, 2023, and December 31, 2023. The alternative method decision letter/memo designation numbers, test methods affected, sources allowed to use this alternative, and method modifications or alternative methods allowed are summarized in Table 1 of this notice. A summary of approval documents was previously made available on our Technology Transfer Network between January 1, 2023, and December 31, 2023. For more detailed information, please refer to the complete copies of these approval documents available at *https://www.epa.gov/emc/broadly-applicable-approved-alternative-test-methods.*

As also explained in our January 30, 2007 notice, we will revisit approvals of alternative test methods in response to written requests or objections indicating that a particular approved alternative test method either should not be broadly applicable or that its use is not appropriate or should be limited in some way. Any objection to a broadly applicable alternative test method, as well as the resolution of that objection, will be announced at *https://www.epa.gov/emc/broadly-applicable-approved-alternative-test-methods* and in a subsequent **Federal Register** notice. If we decide to retract a broadly applicable test method, we will likely consider the need for an appropriate transition period for users either to request case-by-case approval or to transition to an approved method.

Richard A. Wayland,

Director, Air Quality Assessment Division.

TABLE 1—APPROVED ALTERNATIVE TEST METHODS AND MODIFICATIONS TO TEST METHODS REFERENCED IN OR PUBLISHED UNDER APPENDICES IN 40 CFR PARTS 60 AND 63 POSTED BETWEEN JANUARY 2023 AND DECEMBER 2023 [a]

Alternative method decision letter/ memo number	As an alternative or modification to . . .	For . . .	You may . . .
ALT–151	EPA Method 3A as an alternative method for EPA Method 3B.	Testing of regulated sources requiring the use of EPA Method 3B in 40 CFR, parts 59, 60, 61, 63 and 65.	Use EPA Method 3A instead of EPA Method 3B, whenever required to use Method 3B in any regulation contained within 40 CFR, parts 59, 60, 61, 63 and 65.
ALT–152	Certification of candidate Method 9 observers through use of a virtual reality (VR) headset.	Use of a VR headset-based alternative method for conducting Method 9 plume demonstrations and certification as described in this letter and further detailed in Attachment A as an alternative to the procedures of section 3.2 of Method 9 with specific limitations, as listed in the letter.	Use the VR headset-based alternative method for conducting Method 9 plume demonstrations and certification as described in this letter and further detailed in Attachment A as an alternative to the procedures of section 3.2 of Method 9.
ALT–153	EPA Method 3A as an alternative method for EPA Method 3B integrated bag analysis.	Calculation of stack gas molecular weight and/or diluent correction to measured pollutant concentrations.	Use analysis procedures similar to those found in Method 3A to analyze the bag sample(s) collected according to Method 3B.
ALT–154	ASTM E–2515 filter gravimetric pre/post-test filter mass assessments per method direction in section 9.4.4.	Consistent measurement of filter media and associated gaskets, as a paired set, to lower overall measurement uncertainty.	Desiccate and perform the pre-test processing (taring) of filters in pairs as is currently allowed for filter gaskets in section 9.4.4 (pre-test) and 10.2.1 (post-test) when conducting testing of wood heaters under Subpart AAA and determine mass emissions.
ALT–155	ASTM E–2515 dilution tunnel minimum velocity requirement as stated in section 9.2.1.	The use of low flow manometers to measure flow velocities as low as 180 fpm during certain PM measurement tests.	Measure velocities as low as 180 fpm, in a dilution tunnel greater than 8″ diameter, using a Ptype pitot tube and a micromanometer gauge more sensitive than the method specified 0.001″ of water such as a manometer with resolution to 0.0005 inches of water or less.

[a] Source owners or operators should review the specific broadly applicable alternative method approval letter at *https://www.epa.gov/emc/broadly-applicable-approved-alternative-test-methods* before electing to employ any alternative test method.

[FR Doc. 2024–01495 Filed 1–24–24; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2023–0643; FRL–11635–01–OCSPP]

Pesticides; Request for Stakeholder Input on the Proposed Design of Assistance Agreements for a National Farmworker Training and Education Program; Notice of Availability and Opportunity for Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is announcing the availability of a Request for Information (RFI) that seeks public comment to inform the design of its National Farmworker Training and Education Program (NFTEP). The NFTEP will be a series of assistance agreements to conduct pesticide safety trainings for farmworkers and farmworker communities, create pesticide safety educational and training materials, and develop innovative outreach and delivery strategies. The Pesticide Registration Improvement Act of 2022 (PRIA 5) included set-asides of up to $7.5 million in total for fiscal years 2023–2027 to fund the NFTEP. PRIA 5 also requires EPA to seek input from persons who conduct farmworker education and training to inform the program's Notices of Funding Opportunities (NOFOs), formerly called Requests for Applications (RFAs). EPA has previously solicited input on its PRIA-funded worker protection activities, including cooperative agreements, through the Pesticide Program Dialogue Committee (PPDC), which includes representatives of farmworker-serving organizations.

DATES: Submit your comments on or before March 25, 2024.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2023–0643, 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 or visiting the docket, along with more information about dockets generally, is available at *https://www.epa.gov/dockets*.

FOR FURTHER INFORMATION CONTACT: Isabel Gross, Office of Chemical Safety and Pollution Prevention, Pesticide Re-evaluation Division (7508M), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 566–1741; email address: *gross.isabel@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Executive Summary

A. Does this action apply to me?

This notice is directed to the general public and may be of specific interest to entities that conduct education and training of farmworkers (*e.g.,* governmental and non-governmental organizations, non-profit organizations, community-based organizations, labor organizations, academic institutions, research institutions, community health centers and clinics, public health administration and environmental health administration programs, and private sector entities). Because others may also be interested in this notice, the EPA has not attempted to describe all entities that may be interested in the subject.

B. What is the Agency's authority for taking this action?

The Pesticide Registration Improvement Act of 2022 (referred to as PRIA 5), Public Law 117–328, amended the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136 *et seq.,* to include up to $7,500,000 of set-aside funds in total for a Farmworker Training Program. Funds are for fiscal years 2023 through 2027.

Under PRIA section 703(a)(1)(G)(i), the NFTEP should provide assistance agreements to facilitate training and education for farmworkers and farmworker communities on pesticide safety, rights related to pesticide safety, and the Worker Protection Standard; to develop educational and training materials; and to develop and test innovative outreach and delivery strategies to better reach farmworkers and farmworker communities with these trainings and materials.

PRIA section 703(a)(1)(G)(iii), specifies that only community-based nonprofit farmworker organizations are eligible to receive this funding. Section 703(a)(1)(G)(ii) of PRIA 5 further states that, in order to be eligible to receive this funding, the community-based nonprofit farmworker organizations must also have experience providing training and education services for farmworkers or pesticide handlers, or experience developing informational materials for farmworkers or pesticide handlers.

C. Why is EPA taking this action?

The purpose of the RFI is to solicit additional feedback from a broad array of individuals and organizations with applicable knowledge and expertise. Additional public input, including environmental justice perspectives, will help the Agency refine the NOFOs and more effectively address the disproportionate impact of pesticide illness and injury on farmworker communities. This action satisfies PRIA section 703(a)(1)(K)(iv) which requires that EPA seek, in an open and transparent manner that does not provide a competitive advantage to any person or persons, input from persons who conduct farmworker education and training.

D. What should I consider as I prepare my comments?

1. Submitting CBI

Do not submit CBI to EPA through *https://www.regulations.gov* or email. If you wish to include CBI in your comment, please follow the applicable instructions at *https://www.epa.gov/dockets/commenting-epa-dockets#rules* and clearly mark the part or all of the information that you claim to be 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 marked as CBI 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 Tips for Effective Comments at *https://www.epa.gov/dockets/commenting-epa-dockets*.

II. Background

EPA previously solicited feedback on its PRIA-funded worker protection activities, including cooperative agreements, from the Pesticide Programs Dialogue Committee (PPDC), a Federal Advisory Committee group. The PPDC's Farmworker and Clinician Workgroup met monthly for most of a year and included representatives of many different stakeholders, such as community-based farmworker nonprofit organizations, community-based organizations that serve Indian Tribes, university extension programs, industry, State regulators, farm bureaus, other federal agencies, and current EPA grantees. The workgroup formulated a series of recommendations, which the full PPDC then adopted and sent for EPA's consideration. The recommendations can be found at *https://www.epa.gov/system/files/documents/2021-10/presentation-*

farmworker-and-clinician-training-workgroup-recommendations.pdf. These recommendations were supported by anecdotes shared by members from two additional Federal Advisory Committees, the National Environmental Justice Advisory Council (NEJAC) and the Children's Health Protection Advisory Committee (CHPAC). EPA has incorporated these recommendations into the program design elements laid out in the RFI. The RFI, which is available in the docket, seeks additional feedback to build upon those recommendations.

III. Request for Public Comment

A. What feedback does EPA hope to gain from the public comments?

In the RFI, the Agency has proposed elements of program designs and activities to be funded under the NFTEP; it has also posed a series of related questions, though commenters may address aspects of the program not discussed in the questions. Generally, EPA is interested in comments about how to meaningfully involve farmworker communities in the NFTEP assistance agreements, farmworker communities' specific language and training needs, successful outreach and delivery strategies, and priority areas for assistance agreements. For the specific elements of the proposed program designs, please consult the RFI document available in the docket. EPA's questions are as follows:

- How can EPA support meaningful, consistent involvement of farmworker communities in the design and implementation of these programs, understanding that they face many barriers to involvement?
- Are there others who could be considered part of farmworker communities who are not captured in the ''Definitions'' section of the RFI?
- What are the barriers to applying for and successfully managing these agreements, for the organizations described in the ''Eligibility'' section of the RFI?
- What specific languages (besides Spanish) should these agreements prioritize for trainings, materials development, and translations?
- How can EPA support translations that are both technically accurate and appropriate to farmworker communities' literacy levels and cultural context?
- What trainings are needed to reinforce and supplement the required annual WPS pesticide safety trainings for workers and handlers?
- What educational gaps exist for pesticide handlers (see the ''Definitions'' section of the RFI), specifically, who may be considered part of farmworker communities but have additional responsibilities under the WPS?
- What are examples of successful outreach strategies to ensure that farmworker communities have access to pesticide safety information and trainings?
- Should EPA select awards based in part on geographic areas and crops (use sites)?

B. What is the request for information?

In addition to soliciting comment on the questions posed in Unit III.A. of this document, EPA is seeking stakeholder input on the RFI document. EPA is interested in comments about how to meaningfully involve farmworker communities in the NFTEP assistance agreements, farmworker communities' specific language and training needs, successful outreach and delivery strategies, and priority areas for assistance agreements.

EPA encourages all potentially interested parties, including individuals, governmental and non-governmental organizations, non-profit organizations, community-based organizations, labor organizations, academic institutions, research institutions, community health centers and clinics, public health administration and environmental health administration programs, and private sector entities to comment on the RFI and to answer any of the questions posed. To the extent possible, the Agency asks commenters to please cite any public data related to or that supports the responses, and to the extent permissible, describe any supporting data that is not publicly available.

Authority: 7 U.S.C. 136 *et seq.*

Dated: January 19, 2024.

Michal Freedhoff,

Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

[FR Doc. 2024–01457 Filed 1–24–24; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[WC Docket No. 23–1; DA 24–50; FR ID 198062]

Next Meetings of the North American Numbering Council

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: In this document, the Commission released a public notice announcing two meetings of the North American Numbering Council (NANC).

DATES: March 1, 2024 and June 25, 2024. The meeting on March 1, 2024, will come to order at 10:00 a.m. ET and the meeting on June 25, 2024, will come to order at 2:00 p.m. ET.

ADDRESSES: The meetings will be conducted in person in the Commission Meeting Room of the Federal Communications Commission, 45 L Street NE, Washington, DC and via the internet at *http://www.fcc.gov/live.*

FOR FURTHER INFORMATION CONTACT: You may also contact Christi Shewman, Designated Federal Officer, at *christi.shewman@fcc.gov* or 202–418–0646. More information about the NANC is available at *https://www.fcc.gov/about-fcc/advisory-committees/general/north-american-numbering-council.*

SUPPLEMENTARY INFORMATION: The NANC meetings will be held Friday, March 1, 2024 at 10:00 a.m. ET and Tuesday, June 25 at 2:00 p.m. ET in person in the Commission Meeting Room of the Federal Communications Commission, 45 L Street NE, Washington, DC and via the internet at *http://www.fcc.gov/live.* While the meetings are open to the public, the FCC headquarters building is not open access, and all guests must check in with and be screened by FCC security at the main entrance on L Street. Attendees will not be required to have an appointment but must otherwise comply with protocols outlined at: *https://www.fcc.gov/visit.* Additionally, the meetings will be available to the public via live feed from the FCC's web page at *http://www.fcc.gov/live.* Open captioning will be provided online for these events. Other reasonable accommodations for people with disabilities are available upon request. Requests for such accommodations should be submitted via email to *fcc504@fcc.gov* or by calling the Consumer & Governmental Affairs Bureau at (202) 418–0530. Such requests should include a detailed description of the accommodation needed. In addition, please include a way for the FCC to contact the requester if more information is needed to fill the request. Please allow at least five days' advance notice for accommodation requests; last minute requests will be accepted but may not be possible to accommodate. Members of the public may submit comments to the NANC in the FCC's Electronic Comment Filing System, ECFS, at *www.fcc.gov/ecfs.* Comments to the NANC should be filed in WC Docket No. 23–1.

This is a summary of the Commission's document in WC Docket No. 23–1, DA 24–50, released January 17, 2024.

Proposed Agenda: At the March 1, 2024 meeting, the NANC will consider and vote on recommendations from the Toll Free: Future Utilization of Numbers (T–FUN) Working Group regarding 833 toll free numbers. The NANC will also hear routine status reports from the Numbering Administration Oversight Working Group (NAOWG), the North American Portability Management, LLC, and the Secure Telephone Identity Governance Authority.

At the June 25, 2024 meeting, the NANC will consider and vote on recommendations from the following Working Groups:

- The T–FUN Working Group regarding 800 toll free numbers;
- The Call Authentication Trust Anchor Working Group regarding the regulatory treatment of international cellular roaming traffic;
- The Internet of Things Numbering Usage Working Group regarding the use of North American Numbering Plan numbers for the routing and addressing of Internet of Things communications; and
- The NAOWG regarding (1) the Numbering Administration Performance Review; and (2) the North American Numbering Plan Fund Size Projections and Contribution Factor.

The NANC will also hear a report from the Billing & Collection Agent, Welch LLP. Either of these agendas may be modified at the discretion of the NANC Chairwoman and the Designated Federal Officer.

(5 U.S.C. ch. 10)

Federal Communications Commission.

Jodie May,

Division Chief, Competition Policy Division, Wireline Competition Bureau.

[FR Doc. 2024–01479 Filed 1–24–24; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–XXXX and OMB 3060–0928; FR ID 198641]

Information Collections Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act of 1995 (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information 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 25, 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–XXXX.

Title: Class A Television Stations—Low Power Protection Act.

Type of Review: New collection.

Respondents: Business or other for-profit entities, not-for-profit institutions, and state, local or tribal governments.

Number of Respondents and Responses: 50 respondents and 250 responses.

Estimated Time per Response: 1 hour.

Frequency of Response: One-time reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection 47 U.S.C. 151, 152, 154(i), 154(j), 303, 307, 309, 311, 336(f), and the Low Power Protection Act, Public Law 117–344, 136 Stat. 6193 (2023).

Total One-Time Burden: 250 hours.

Total One-Time Cost: No cost.

Needs and Uses: The Commission will use the information collected under this information collection to determine whether applicants can convert to Class A status pursuant to the Low Power Protection Act.

On December 11, 2023, the Commission adopted a Report and Order, FCC 23–112, to implement the Low Power Protection Act (LPPA or Act), which was enacted on January 5, 2023. The LPPA provides certain low power television (LPTV) stations with a limited window of opportunity to apply for primary spectrum use status as Class A television stations. The Report and Order establishes the period during which eligible stations may file applications for Class A status, eligibility and interference requirements, and the process for submitting applications.

The Report and Order adopts new rules 47 CFR 73.6030(c) and (d) which contain information collections. Section 73.6030(c) provides that applications for conversion to Class A status must be submitted using FCC Form 2100, Schedule F within one year beginning on the date on which the Commission issues notice that the rules implementing the Low Power Protection Act take effect. The licensee will be required to submit, as part of its application, a statement concerning the station's operating schedule during the 90 days preceding January 5, 2023 and a list of locally produced programs aired during that time period. The applicant may also submit other documentation, or may be requested by Commission staff to submit other documentation, to support its certification that the licensee meets the eligibility requirements for a Class A license under the Low Power Protection Act. Section 73.6030(d) provides that A Class A television broadcast license will only be issued under the Low Power Protection Act to a low power television licensee that files an application for a Class A Television license (FCC Form 2100, Schedule F), which is granted by the Commission.

Under this new information collection, the Commission will collect the information, disclosures, and certifications required by sections 73.6030(c) and (d) of the Commission's rules from each applicant seeking to convert to Class A status and will use the information, disclosures, and certifications to determine whether an applicant is qualified to convert to a Class A station. Without the information

collected, the Commission will not be able to determine if an applicant is qualified to become a Class A station under the LPPA.

OMB Control No.: 3060–0928.

Title: FCC Form 2100, Application for Media Bureau Audio and Video Service Authorization, Schedule F (Formerly FCC 302–CA); 47 CFR 73.6028; Section 73.3700(b)(3); Section 73.3700(h)(2) and Section 73.3572(h).

Form No.: FCC Form 2100, Schedule F.

Type of Review: Revision of a currently approved information collection.

Respondents: Business or other for-profit entities; Not for profit institutions; State, local or Tribal Government.

Number of Respondents and Responses: 115 respondents and 165 responses.

Estimated Time per Response: 2 hours.

Frequency of Response: On occasion reporting requirement and One time reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority is contained in Statutory authority for the collection of information associated with the LPPA is contained in Sections 1, 2, 4(i), 4(j), 303, 307, 309, 311, and 336(f) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 154(j), 303, 307, 309, 311, 336(f) of the Communications Act of 1934, as amended, and the Low Power Protection Act, Public Law 117–344, 136 Stat. 6193 (2023).

Statutory authority for the collection of information associated with the CBPA is contained in Sections 154(i), 307, 308, 309, and 319 of the Communications Act of 1934, as amended, the Community Broadcasters Protection Act of 1999, and the Middle Class Tax Relief and Job Creation Act of 2012.

Total Annual Burden: 460 hours.

Annual Cost Burden: $41,725.

Needs and Uses: The FCC Form 2100, Schedule F is used by Low Power TV (LPTV) stations that seek to convert to Class A status; existing Class A stations seeking a license to cover their authorized construction permit facilities; and Class A stations entering into a channel sharing agreement. The FCC Form 2100, Schedule F requires a series of certifications by the Class A applicant as prescribed by the Community Broadcasters Protection Act of 1999 (CBPA). Licensees will be required to provide weekly announcements to their listeners: (1) informing them that the applicant has applied for a Class A license and (2) announcing the public's opportunity to comment on the application prior to Commission action.

On December 11, 2023, the Commission adopted a *Report and Order, FCC 23–112,* to implement the Low Power Protection Act (LPPA or Act), which was enacted on January 5, 2023. The LPPA provides certain low power television (LPTV) stations with a limited window of opportunity to apply for primary spectrum use status as Class A television stations. The *Report and Order* establishes the period during which eligible stations may file applications for Class A status, eligibility and interference requirements, and the process for submitting applications. The *Report and Order* provides that applications to convert to Class A status under the Low Power Protection Act must be filed using FCC Form 2100, Schedule F. The application form requires certifications by the applicant as prescribed by the LPPA. This submission is being made to OMB for approval of the modified FCC Form 2100, Schedule F. In addition, LPTV stations that file an application to convert to Class A status must provide local public notice of the filing of the application pursuant to 47 CFR 73.3580(c). Specifically, the station must both broadcast on-air announcements and give online notice. This submission also reflects the burden associated with that information collection and is also being made to request Office of Management and Budget (OMB) approval of that collection.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2024–01403 Filed 1–24–24; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1210; FR ID 198699]

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

DATES: Written PRA comments should be submitted on or before March 25, 2024. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *nicole.ongele@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Nicole Ongele, (202) 418–2991.

SUPPLEMENTARY INFORMATION: The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

OMB Control Number: 3060–1210.

Title: Wireless E911 Location Accuracy Requirements (PS Docket No. 07–114).

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit, State, Local or Tribal Government, and Federal Government.

Number of Respondents and Responses: 4,190 respondents; 21,336 responses.

Estimated Time per Response: 2–10 hours.

Frequency of Response: Recordkeeping, on occasion; one-time; quarterly and semi-annual reporting requirements, and third-party disclosure requirements.

Obligation to Respond: Mandatory. Statutory authority for this information collection is contained in 47 U.S.C. 1, 2,

4(i), 7, 10, 201, 214, 222, 251(e), 301, 302, 303, 303(b), 303(r), 307, 307(a), 309, 309(j)(3), 316, 316(a), and 332 of the Communications Act of 1934, as amended.

Total Annual Burden: 94,098 hours.

Total Annual Cost: No Cost.

Needs and Uses: This notice pertains to multiple information collections relating to the Commission's wireless E911 indoor location accuracy regulations. As described below, OMB previously approved the information collections associated with OMB Control No. 3060–1210.

Section 9.10(i)(4)(iv) requires all CMRS providers to certify ''that neither they nor any third party they rely on to obtain dispatchable location information will use dispatchable location information or associated data for any non-911 purpose, except with prior express consent or as otherwise required by law.'' In addition, ''[t]he certification must state that CMRS providers and any third party they rely on to obtain dispatchable location information will implement measures sufficient to safeguard the privacy and security of dispatchable location information.'' Under 47 CFR 9.10(i)(4)(v), all CMRS providers must certify ''that neither they nor any third party they rely on to obtain z-axis information will use z-axis information or associated data for any non-911 purpose, except with prior express consent or as otherwise required by law.'' Further, ''[t]he certification must state that CMRS providers and any third party they rely on to obtain z-axis information will implement measures sufficient to safeguard the privacy and security of z-axis location information.'' The Commission obtained OMB approval for the information collections contained in these certifications after adopting the Fourth Report and Order, Fifth Report and Sixth Report and Order under OMB Control No. 3060–1210. The Sixth Report and Order modified these information collections slightly by deleting references to the National Emergency Address Database (NEAD), which has been discontinued and will not be available to CMRS providers.

Section 9.10(i)(3)(ii) requires CMRS providers that serve any of the six Test Cities identified by ATIS (Atlanta, Denver/Front Range, San Francisco, Philadelphia, Chicago, and Manhattan Borough of New York City) or portions thereof to collect and report aggregate data on the location technologies used for live 911 calls. As discussed below, in 2018, the Commission developed a reporting template to assist CMRS providers in collecting, formatting, and submitting aggregate live 911 call data in accordance with the requirements in the rules. After adopting the Fifth Report and Order, the Commission indicated that it would modify the live call template to include vertical location. We have since modified the form to include z-axis (vertical) location information from live calls in addition to horizontal location information. Specifically, the template includes fields for reporting the percentage of total 911 calls that result in dispatchable location or z-axis location information by morphology and position technology and for reporting z-axis deployment options used for 911 calls, and OMB approved that modification.

Section 9.10(j)(4) requires CMRS providers to supply confidence and uncertainty (C/U) information with wireless E911 calls that have dispatchable location or z-axis information and to do so in accordance with the timelines for vertical location accuracy compliance. As noted below, OMB previously approved and renewed a C/U data requirement for horizontal location information under OMB Control No. 3060–1204. (*See also* OMB Control No. 3060–1147.) The Fifth Report and Order extended the C/U requirements to include vertical location information, and OMB approved that modification. The Sixth Report and Order revised 47 CFR 9.10(j)(4) to add a requirement that where floor-level information is available to CMRS providers, they must provide C/U data for the z-axis (vertical) information included with such floor-level information.

Under Section 9.10(k), CMRS providers must record information on all live 911 calls, including the C/U data that they provide to PSAPs under Section 9.10(j) of the rules. In addition, Section 9.10(k) requires CMRS providers to make this information available to PSAPs upon request and to retain it for a period of two years. The Commission obtained OMB approval for the information collections contained in Section 9.10(k) after adopting the Fourth Report and Order. The Sixth Report and Order amended Section 9.10(k) to make explicit that the requirements in the rule extend to C/U data for dispatchable location and floor-level information, as well as for z-axis information. This eliminated a potential gap in the rule, which previously referred only to z-axis information.

Section 9.10(i)(2)(ii)(J)(*4*) provides that a CMRS provider will be deemed to have met its z-axis technology deployment obligation so long as it either pre-installs or affirmatively pushes the location technology to end users so that they receive a prompt or other notice informing them that the application or service is available and what they need to do to download and enable the technology on their phone. A CMRS provider will be deemed in compliance with its z-axis deployment obligation if it makes the technology available to the end user in this manner even if the end user declines to use the technology or subsequently disables it. This collection adopted by the Commission in the Sixth Report and Order was approved by OMB.

Section 9.10(i)(2)(ii)(A) requires that within three years of the effective date of the rule, CMRS providers shall deliver uncompensated barometric pressure data from any device capable of delivering such data to PSAPs. This requirement is necessary to ensure that PSAPs are receiving all location information possible to be used for dispatch. This requirement is also necessary to ensure that CMRS providers implement a vertical location solution in the event that the proposed ''dispatchable location'' solution does not function as intended by the three-year mark and beyond.

Section 9.10(i)(2)(ii)(B) requires that the four nationwide providers submit to the Commission for review and approval a reasonable metric for z-axis (vertical) location accuracy no later than 3 years from the effective date of rules. This requirement is critical to ensure that the vertical location framework adopted in the Fourth Report and Order is effectively implemented.

Section 9.10(i)(2)(iii) requires CMRS providers to certify compliance with the Commission's rules at various benchmarks throughout implementation of improved location accuracy. This requirement is necessary to ensure that CMRS providers remain ''on track'' to reach the location accuracy benchmarks.

Section 9.10(i)(2)(iv) provides that PSAPs may seek Commission enforcement of the location accuracy requirements within their geographic service area, but only so long as they have implemented policies that are designed to obtain all location information made available by CMRS providers when initiating and delivering 911 calls to the PSAP. Prior to seeking Commission enforcement, a PSAP must provide the CMRS provider with 30 days written notice, and the CMRS provider shall have an opportunity to address the issue informally. If the issue has not been addressed to the PSAP's satisfaction within 90 days, the PSAP may seek enforcement relief.

Section 9.10(i)(3)(i) requires that within 12 months of the effective date, the four nationwide CMRS providers must establish the test bed described in

the Fourth Report and Order, which will validate technologies intended for indoor location. The test bed is necessary for the compliance certification framework adopted in the Fourth Report and Order.

Section 9.10(i)(3)(ii) requires that beginning 18 months from the effective date of the rules, CMRS providers providing service in any of the six Test Cities identified by ATIS (Atlanta, Denver/Front Range, San Francisco, Philadelphia, Chicago, and Manhattan Borough of New York City) or portions thereof must collect and report aggregate data on the location technologies used for live 911 calls. Nationwide CMRS providers must submit call data on a quarterly basis; non-nationwide CMRS providers need only submit this data every six months. Non-nationwide providers that do not provide service in any of the Test Cities may satisfy this requirement by collecting and reporting data based on the largest county within the carrier's footprint. This reporting requirement is necessary to validate and verify the compliance certifications made by CMRS providers.

The Commission developed a reporting template to assist CMRS providers in collecting, formatting, and submitting aggregate live 911 call data in accordance with the requirements in the rules. The template will also assist the Commission in evaluating the progress CMRS providers have made toward meeting the 911 location accuracy benchmarks. The template is an Excel spreadsheet and will be available for downloading on the Commission's website. The Commission may also develop an online filing mechanism for these reports in the future.

Section 9.10(i)(3)(iii) requires CMRS providers to retain testing and live call data gathered pursuant to this section for a period of 2 years.

Section 9.10(i)(4)(i) provides that no later than 18 months from the effective date of the adoption of the rule, nationwide CMRS providers shall report to the Commission their initial plans for meeting the indoor location accuracy requirements of paragraph (i)(2) of Section 9.10. Non-nationwide CMRS providers will have an additional 6 months to submit their implementation plan.

Section 9.10(i)(4)(ii) requires that no later than 18 months from the effective date, each CMRS provider shall submit to the Commission a report on its progress toward implementing improved indoor location accuracy. Non-nationwide CMRS providers will have an additional 6 months to submit their progress reports. All CMRS providers shall provide an additional progress report no later than 36 months from the effective date of the adoption of this rule. The 36-month reports shall indicate what progress the provider has made consistent with its implementation plan.

Section 9.10(i)(4)(iii) requires that prior to activation of the NEAD but no later than 18 months from the effective date of the adoption of this rule, the nationwide CMRS providers shall file with the Commission and request approval for a security and privacy plan for the administration and operation of the NEAD.

Section 9.10(i)(4)(iv) requires CMRS providers to certify ''that neither they nor any third party they rely on to obtain dispatchable location information will use dispatchable location information or associated data for any non-911 purpose, except with prior express consent or as otherwise required by law.'' In addition, ''[t]he certification must state that CMRS providers and any third party they rely on to obtain dispatchable location information will implement measures sufficient to safeguard the privacy and security of dispatchable location information.'' As noted above, the Commission has revised this requirement to account for the fact that the NEAD has been discontinued.

Section 9.10(i)(4)(v) requires that prior to use of z-axis information to meet the Commission's location accuracy requirements, CMRS providers must certify ''that neither they nor any third party they rely on to obtain z-axis information will use z-axis information or associated data for any non-911 purpose, except with prior express consent or as otherwise required by law.'' Further, ''[t]he certification must state that CMRS providers and any third party they rely on to obtain z-axis information will implement measures sufficient to safeguard the privacy and security of z-axis location information.'' This requirement is necessary to ensure the privacy and security of any personally identifiable information that may be collected by the CMRS provider. As noted above, the Commission has revised this requirement to account for the fact that the NEAD has been discontinued.

Section 9.10(j) requires CMRS providers to provide standardized confidence and uncertainty (C/U) data for all wireless 911 calls, whether from outdoor or indoor locations, on a per-call basis upon the request of a PSAP. This requirement makes the use of C/U data easier for PSAPs.

Section 9.10(j)(4) also requires that upon meeting the timeframes pursuant to paragraphs (i)(2)(ii)(C) and (D) of this section, CMRS providers shall provide with wireless 911 calls that have dispatchable location or z-axis (vertical) information the C/U data required under paragraph (j)(1) of this section. Where available to the CMRS provider, floor level information must be provided with associated C/U data in addition to z-axis location information.

Section 9.10(k) requires CMRS providers to record information on all live 911 calls, including but not limited to the positioning source method used to provide a location fix associated with the call, as well as confidence and uncertainty data. This information must be made available to PSAPs upon request, as a measure to promote transparency and accountability for this set of rules.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2024–01480 Filed 1–24–24; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–R–262 and CMS–10769]

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 26, 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:* Revision of a currently approved Information Collection; *Title of Information Collection:* CMS Plan Benefit Package (PBP) and Formulary CY 2025; *Use:* Under the Medicare Modernization Act (MMA), Medicare Advantage (MA) and Prescription Drug Plan (PDP) organizations are required to submit plan benefit packages for all Medicare beneficiaries residing in their service area. The plan benefit package submission consists of the Plan Benefit Package (PBP) software, formulary file, and supporting documentation, as necessary. MA and PDP organizations use the PBP software to describe their organization's plan benefit packages, including information on premiums, cost sharing, authorization rules, and supplemental benefits. They also generate a formulary to describe their list of drugs, including information on prior authorization, step therapy, tiering, and quantity limits.

CMS requires that MA and PDP organizations submit a completed PBP and formulary as part of the annual bidding process. During this process, organizations prepare their proposed plan benefit packages for the upcoming contract year and submit them to CMS for review and approval. CMS uses this data to review and approve the benefit packages that the plans will offer to Medicare beneficiaries. This allows CMS to review the benefit packages in a consistent way across all submitted bids during with incredibly tight timeframes. This data is also used to populate data on Medicare Plan Finder, which allows beneficiaries to access and compare Medicare Advantage and Prescription Drug plans. *Form Number:* CMS–R–262 (OMB control number: 0938–0763); Frequency: Yearly; *Affected Public:* Private Sector, Business or other for-profits and Not-for-profit institutions; *Number of Respondents:* 825; *Total Annual Responses:* 8,770; *Total Annual Hours:* 55,782 (For policy questions regarding this collection contact Kristy Holtje at 410–786–2209.)

2. *Type of Information Collection Request:* Revision of a currently approved information collection; *Title of Information Collection:* Satisfaction of Nursing Homes, Hospitals, and Outpatient Clinicians Working with the CMS Network of Quality Improvement and Innovation Contractors Program (NQIIC); *Use:* The purpose of this Information Collection Request (ICR) is to collect data to inform the program evaluation of the Centers for Medicare & Medicaid Services (CMS) Quality Innovation Network-Quality Improvement Organization (QIN–QIO) and Hospital Quality Improvement Contractors (HQIC) programs under the Network of Quality Improvement and Innovation Contractors (NQIIC) contract vehicle. This is a revision package. First, we updated the Nursing Home and Hospital Surveys to cover all the quality improvement focus areas targeted by NQIIC awardees, removed some but not all COVID–19 Public Health Emergency (PHE) related questions to reflect the progress of Federal health program (*e.g.,* Agency for Healthcare Research and Quality Project Echo program was officially ended in August 2021), and made minor refinements based on the first round of survey fielding. Second, we added the Outpatient Clinician Survey in the same revision package since all three surveys are conducted under the same NQIIC contract.

This revision package supports evaluation of the technical assistance provided by the QINQIO Program to nursing homes and outpatient clinicians in community settings, and Hospital Quality Improvement Contractors (HQIC) Program activities to support hospitals. This ICR is part of a larger evaluation of the overall impact of the NQIIC Program. *Form Number:* CMS–10769 (OMB control number: 0938–1424); *Frequency:* Yearly; *Affected Public:* State and Private Sector (Business or other for-profits); *Number of Respondents:* 1,900; *Total Annual Responses:* 1,900; *Total Annual Hours:* 559. (For policy questions regarding this collection, contact Jeff Mokry at 214–767–4021.)

Dated: January 19, 2024.

William N. Parham, III,

Director, Division of Information Collections and Regulatory Impacts, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2024–01383 Filed 1–24–24; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2023–N–5706]

Voluntary Quality Management Maturity Prototype Assessment Protocol Evaluation Program

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing an opportunity for a limited number of establishments to participate in a voluntary Quality Management Maturity Prototype Assessment Protocol Evaluation Program involving the use of a prototype assessment protocol to evaluate quality management maturity (QMM). The Center for Drug Evaluation and Research (CDER) is implementing this voluntary program for manufacturers of CDER-regulated drug products to gain experience with the prototype assessment protocol and to evaluate whether use of the protocol, as designed, will enable a meaningful assessment of the establishment's

quality management practices while providing useful feedback for the establishment. This notice outlines the types of establishments FDA is seeking for participation and the process for submitting a request to participate in the program.

DATES: FDA intends to accept requests to participate in the voluntary QMM Prototype Assessment Protocol Evaluation Program through March 25, 2024. See the ''Participation'' section of this document for instructions on submitting a request to participate and the selection process.

FOR FURTHER INFORMATION CONTACT: *For questions about the voluntary QMM Prototype Assessment Protocol Evaluation Program:* Djamila Harouaka, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 4160, Silver Spring, MD 20993–0002, 240–402–0224, *CDER-QMM@fda.hhs.gov.*

To submit a request to participate in the program: Conchetta Newton, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 4144, 240–402–6551, *CDER-QMM@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

QMM refers to the extent to which drug manufacturing establishments implement quality management practices that prioritize patients, drive continual improvement, and enhance supply chain reliability through the strategic integration of business decisions and manufacturing operations with quality practices and technological advancements. CDER is in the process of developing a voluntary program to promote QMM at drug manufacturing establishments, which would encourage drug manufacturers to implement quality management practices that go beyond current good manufacturing practice (CGMP) requirements.[1]

As part of the QMM program initiative, CDER is developing a QMM Assessment Tool (including both a protocol and rubric) to evaluate how effectively establishments monitor and manage quality and quality systems.[2] In FY 2024, CDER intends to launch the voluntary Quality Management Maturity Prototype Assessment Protocol Evaluation Program to gain experience with use of a prototype of the assessment protocol to evaluate whether use of the protocol, as currently designed, will enable a meaningful assessment of the establishment's quality management practices and actionable feedback for the establishment. The outcomes from this prototype evaluation program will help to inform the development of the QMM Assessment Tool to be used in the eventual QMM program. This notice announces FDA's intent to launch the QMM Prototype Assessment Protocol Evaluation Program, outlines the types of establishments FDA is seeking for participation, and describes the process for submitting a request to participate in the program.

Between October 2020 and March 2022, CDER conducted under contract two pilot programs to assess the QMM of drug manufacturing establishments. The first pilot program evaluated the maturity of seven domestic manufacturers of finished dosage forms for the U.S. market (Ref. 1). The second pilot program evaluated the maturity of eight foreign manufacturers of active pharmaceutical ingredients (APIs) (Ref. 2). Each pilot program was conducted by a different contractor. These pilot programs provided valuable insights to CDER for developing a protocol to assess establishments' QMM, understanding assessor behaviors during interviews of establishment personnel, and gathering participant feedback on assessment questions, reports, and outcomes (Ref. 3).

Using findings from these two pilot programs, a review of the quality management maturity literature, evaluations of existing external programs assessing elements of quality culture or pharmaceutical quality, surveys of external stakeholders, and feedback from partner offices and centers within FDA, CDER has developed a prototype assessment protocol to evaluate an establishment's QMM. The prototype assessment protocol includes a series of questions in five practice areas: leadership, business continuity, technical excellence, advanced pharmaceutical quality system, and employee empowerment and engagement. Within each practice area, the prototype assessment protocol explores key elements of the establishment's QMM. Examples of some topics that may be covered under the practice areas include: management review and resource management (management commitment to quality), supply planning and demand forecasting (business continuity), corrective action and preventive action process (advanced pharmaceutical quality system), data governance and process optimization (technical excellence), and rewards and recognition (employee engagement and empowerment). CDER will use the standardized prototype assessment protocol to collect information on an establishment's executed practices, behaviors, and responses to specific questions, and will evaluate this information using an objective rubric to help identify areas of strength and potential areas with opportunities for improvement.

Prototype assessment protocols will be conducted by trained assessors who will engage directly with establishments, either onsite or in a hybrid (both virtual and onsite) environment. Assessments are anticipated to take up to five business days and are distinct from FDA's regulatory inspections.

II. Participation

A. Establishment Characteristics

CDER will consider the following establishment characteristics when identifying potential participants for this QMM Prototype Assessment Protocol Evaluation Program:

- The potential participant is an establishment as defined in 21 CFR 207.1 that registers with FDA under section 510 (21 U.S.C. 360) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) and manufactures, prepares, propagates, compounds, or processes drugs, or APIs used in such drugs, subject to approval or licensure under section 505 (21 U.S.C. 355) of the FD&C Act or section 351 of the Public Health Service Act (42 U.S.C. 262), or that are marketed pursuant to section 505G of the FD&C Act without an approved application under section 505 of the FD&C Act (often referred to as over-the-counter (OTC) monograph drug products).
- The establishment received at least one human drug surveillance inspection [3] in the prior 5 years.
- The current inspection classification for the establishment at the time of the request to participate is No Action Indicated or Voluntary Action Indicated.
- The establishment manufactures, prepares, propagates, compounds, or processes at least one CDER-regulated drug (API or finished drug product) that

[1] FDA has solicited comments to inform the development of this program. See 88 FR 63587, September 15, 2023.

[2] For additional information, see *CDER's Quality Management Maturity (QMM) Program: Practice Areas and Prototype Assessment Protocol Development* (2023), available at *https://www.fda.gov/media/171705/download?attachment.*

[3] Inspections conducted by FDA or by Mutual Recognition Agreement (MRA) partners and classified by FDA would fulfill this criterion. See Mutual Recognition Agreements (MRA) for more information.

is currently in commercial distribution in the United States.

- The establishment is willing to participate in an onsite or hybrid assessment.

B. Requests To Participate

Drug product manufacturers that are eligible and interested in participating in the voluntary QMM Prototype Assessment Protocol Evaluation Program should submit a request directly to Conchetta Newton (see **FOR FURTHER INFORMATION CONTACT**). To be considered for this program, a request should include all the following information: (1) a contact person (name and email); (2) manufacturing establishment address; (3) FDA Establishment Identifier and Data Universal Numbering System Numbers; (4) a brief description of the business operations (*e.g.,* manufacturing, testing, re/packaging, re/labeling, sterilizing, storing, distributing, or salvaging) conducted at the establishment; and (5) confirmation that the establishment features the characteristics discussed in section II.A of this notice.

C. Selection Process

FDA intends to select participants that reasonably reflect the diversity of the industry. FDA intends to notify each establishment of FDA's decision on their request to participate in the voluntary QMM Prototype Assessment Protocol Evaluation Program within 90 days of receipt. FDA intends to select up to nine volunteer participants for this program.

D. FDA-Participant Interactions

FDA intends to notify selected participants of their selection and confirm participation. This notification will include more information about engagement with the Agency, including an orientation and a pre-assessment questionnaire to assist the establishment in preparing for the assessment, logistical information such as options for dates and times to schedule the assessment, and recommendations for establishment personnel that should be available during the assessment. Teams of three assessors will conduct the prototype assessment protocol over a period that is expected to be up to five business days. Each team will be composed of CDER staff, or a combination of CDER staff and contractors. Following completion of the assessment, each participating establishment will receive a report summarizing areas of strength and growth opportunities. In addition, approximately 6 months after the assessment, FDA will followup with a virtual meeting to get feedback on the prototype assessment protocol, the report, and any limitations encountered. This will help the Agency evaluate use of the protocol, including whether it enables meaningful assessment of the establishment's quality management practices and if feedback for the establishment is actionable.

III. References

The following references marked with an asterisk (*) are on display at the Dockets Management Staff (see **ADDRESSES**) and are available for viewing by interested persons between 9 a.m. and 4 p.m., Monday through Friday; they also are available electronically at *https://www.regulations.gov.* References without asterisks are not on public display at *https://www.regulations.gov* because they have copyright restriction. Some may be available at the website address, if listed. References without asterisks are available for viewing only at the Dockets Management Staff. Although FDA verified the website addresses in this document, please note that websites are subject to change over time.

* 1. Quality Management Maturity for Finished Dosage Forms Pilot Program for Domestic Drug Product Manufacturers; Program Announcement,'' 85 FR 65824, October 16, 2020, *https://www.federalregister.gov/d/2020-22976.*

* 2. ''Quality Management Maturity for Active Pharmaceutical Ingredients Pilot Program for Foreign Facilities; Program Announcement,'' 85 FR 65828, October 16, 2020, *https://www.federalregister.gov/d/2020-22977.*

3. J. Maguire, A. Fisher, D. Harouaka, N. Rakala, et al., 2023, ''Lessons from CDER's Quality Management Maturity Pilot Programs,'' *AAPS Journal,* 25(14), January 10, 2023, *https://doi.org/10.1208/s12248-022-00777-z.*

Dated: January 22, 2024.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2024–01423 Filed 1–24–24; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2020–N–1584]

Authorization of Emergency Use of Certain Medical Devices During COVID–19; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the issuance of Emergency Use Authorizations (EUAs) (the Authorizations) for certain medical devices related to Coronavirus Disease 2019 (COVID–19). FDA has issued the Authorizations listed in this document under the Federal Food, Drug, and Cosmetic Act (FD&C Act). These Authorizations contain, among other things, conditions on the emergency use of the authorized products. The Authorization follows the February 4, 2020, determination by the Secretary of Health and Human Services (HHS), as amended on March 15, 2023, that there is a public health emergency, or a significant potential for a public health emergency, that affects, or has a significant potential to affect, national security or the health and security of U.S. citizens living abroad and that involves the virus that causes COVID–19, and the subsequent declarations on February 4, 2020, March 2, 2020, and March 24, 2020, that circumstances exist justifying the authorization of emergency use of in vitro diagnostics for detection and/or diagnosis of the virus that causes COVID–19, personal respiratory protective devices, and medical devices, including alternative products used as medical devices, respectively, subject to the terms of any authorization issued under the FD&C Act. These Authorizations, which include an explanation of the reasons for issuance, are listed in this document, and can be accessed on FDA's website from the links indicated.

DATES: These Authorizations are effective on their date of issuance.

ADDRESSES: Submit written requests for single copies of an EUA to the Office of Policy, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5431, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your request or include a fax number to which the Authorization may be sent. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the Authorization.

FOR FURTHER INFORMATION CONTACT: Kim Sapsford-Medintz, Office of Product Evaluation and Quality, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 3216, Silver Spring, MD 20993–0002, 301–796–0311 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Background

Section 564 of the FD&C Act (21 U.S.C. 360bbb–3) allows FDA to strengthen the public health protections against biological, chemical, radiological, or nuclear agent or agents. Among other things, section 564 of the FD&C Act allows FDA to authorize the use of an unapproved medical product or an unapproved use of an approved medical product in certain situations. With this EUA authority, FDA can help ensure that medical countermeasures may be used in emergencies to diagnose, treat, or prevent serious or life-threatening diseases or conditions caused by a biological, chemical, radiological, or nuclear agent or agents when there are no adequate, approved, and available alternatives.

Section 564(b)(1) of the FD&C Act provides that, before an EUA may be issued, the Secretary of HHS must declare that circumstances exist justifying the authorization based on one of the following grounds: (1) a determination by the Secretary of Homeland Security that there is a domestic emergency, or a significant potential for a domestic emergency, involving a heightened risk of attack with a biological, chemical, radiological, or nuclear agent or agents; (2) a determination by the Secretary of Defense that there is a military emergency, or a significant potential for a military emergency, involving a heightened risk to U.S. military forces, including personnel operating under the authority of title 10 or title 50 of the U.S. Code, of attack with (A) a biological, chemical, radiological, or nuclear agent or agents; or (B) an agent or agents that may cause, or are otherwise associated with, an imminently life-threatening and specific risk to U.S. military forces; [1] (3) a determination by the Secretary of HHS that there is a public health emergency, or a significant potential for a public health emergency, that affects, or has a significant potential to affect, national security or the health and security of U.S. citizens living abroad, and that involves a biological, chemical, radiological, or nuclear agent or agents, or a disease or condition that may be attributable to such agent or agents; or (4) the identification of a material threat by the Secretary of Homeland Security pursuant to section 319F–2 of the Public Health Service (PHS) Act (42 U.S.C. 247d–6b) sufficient to affect national security or the health and security of U.S. citizens living abroad.

Once the Secretary of HHS has declared that circumstances exist justifying an authorization under section 564 of the FD&C Act, FDA may authorize the emergency use of a drug, device, or biological product if the Agency concludes that the statutory criteria are satisfied. Under section 564(h)(1) of the FD&C Act, FDA is required to publish in the **Federal Register** a notice of each authorization, and each termination or revocation of an authorization, and an explanation of the reasons for the action. Under section 564(h)(1) of the FD&C Act, revisions to an authorization shall be made available on the internet website of FDA. Section 564 of the FD&C Act permits FDA to authorize the introduction into interstate commerce of a drug, device, or biological product intended for use when the Secretary of HHS has declared that circumstances exist justifying the authorization of emergency use. Products appropriate for emergency use may include products and uses that are not approved, cleared, or licensed under section 505, 510(k), 512, or 515 of the FD&C Act (21 U.S.C. 355, 360(k), 360b, or 360e) or section 351 of the PHS Act (42 U.S.C. 262), or conditionally approved under section 571 of the FD&C Act (21 U.S.C. 360ccc). FDA may issue an EUA only if, after consultation with the HHS Assistant Secretary for Preparedness and Response, the Director of the National Institutes of Health, and the Director of the Centers for Disease Control and Prevention (to the extent feasible and appropriate given the applicable circumstances), FDA [2] concludes: (1) that an agent referred to in a declaration of emergency or threat can cause a serious or life-threatening disease or condition; (2) that, based on the totality of scientific evidence available to FDA, including data from adequate and well-controlled clinical trials, if available, it is reasonable to believe that (A) the product may be effective in diagnosing, treating, or preventing (i) such disease or condition; or (ii) a serious or life-threatening disease or condition caused by a product authorized under section 564, approved or cleared under the FD&C Act, or licensed under section 351 of the PHS Act, for diagnosing, treating, or preventing such a disease or condition caused by such an agent; and (B) the known and potential benefits of the product, when used to diagnose, prevent, or treat such disease or condition, outweigh the known and potential risks of the product, taking into consideration the material threat posed by the agent or agents identified in a declaration under section 564(b)(1)(D) of the FD&C Act, if applicable; (3) that there is no adequate, approved, and available alternative to the product for diagnosing, preventing, or treating such disease or condition; (4) in the case of a determination described in section 564(b)(1)(B)(ii), that the request for emergency use is made by the Secretary of Defense; and (5) that such other criteria as may be prescribed by regulation are satisfied. No other criteria for issuance have been prescribed by regulation under section 564(c)(4) of the FD&C Act.

II. Electronic Access

An electronic version of this document and the full text of the Authorizations are available on the internet and can be accessed from *https://www.fda.gov/emergency-preparedness-and-response/mcm-legal-regulatory-and-policy-framework/emergency-use-authorization.*

III. The Authorizations

Having concluded that the criteria for the issuance of the following Authorizations under section 564(c) of the FD&C Act are met, FDA has authorized the emergency use of the following products for diagnosing, treating, or preventing COVID–19 subject to the terms of each Authorization. The Authorizations in their entirety, including any authorized fact sheets and other written materials, can be accessed from the FDA web page entitled ''Emergency Use Authorization,'' available at *https://www.fda.gov/emergency-preparedness-and-response/mcm-legal-regulatory-and-policy-framework/emergency-use-authorization.* The lists that follow include Authorizations issued from April 14, 2023, through December 8, 2023, and we have included explanations of the reasons for their issuance, as required by section 564(h)(1) of the FD&C Act. In addition, the EUAs that have been reissued can be accessed from FDA's web page: *https://www.fda.gov/emergency-preparedness-and-response/mcm-legal-regulatory-and-policy-framework/emergency-use-authorization.*

FDA is hereby announcing the following Authorizations for molecular

[1] In the case of a determination by the Secretary of Defense, the Secretary of HHS shall determine within 45 calendar days of such determination, whether to make a declaration under section 564(b)(1) of the FD&C Act, and, if appropriate, shall promptly make such a declaration.

[2] The Secretary of HHS has delegated the authority to issue an EUA under section 564 of the FD&C Act to the Commissioner of Food and Drugs.

diagnostic and antigen tests for COVID–19, excluding multianalyte tests: [3]

- Azure Biotech, Inc.'s Azure Fatep COVID–19 Antigen Pen Home Test, issued April 14, 2023;
- MedArbor, LLC dba MedArbor Diagnostics' MedArbor Diagnostics SARS–CoV–2 Assay, issued April 19, 2023;
- Princeton BioMeditech Corp's Status COVID–19 Antigen Rapid Test for Home Use, issued April 24, 2023;
- University of Massachusetts' ICTC SARS–CoV–2 RT–PCR Assay, issued April 26, 2023;
- Drexel University College of Medicine's SARS–CoV–2 DUCoM–PDL Modified Tetracore Assay, issued on April 28, 2023;
- Access Medical Laboratories, Inc.'s Global Direct RT–PCR Test, issued on May 3, 2023;
- Nano-Ditech Corporation's Nano-Check COVID–19 Antigen At-Home Test, issued on May 12, 2023;
- BioTeke USA, LLC's Bio-Self COVID–19 Antigen Home Test, issued on May 22, 2023;
- Acutis Diagnostics' SARS–CoV–2 Acutis Multiplex Assay, issued on June 06, 2023;
- Michigan State University laboratories, Department of Medicine Olin Student Health Center's In-Dx SARS–CoV–2 RT–LAMP Assay, issued on June 08, 2023;
- Discover Labs' Discover Labs COVID–19 Assay, issued on June 30, 2023;
- Immunostics Inc.'s Swab-N-Go Home Test COVID–19 Ag, issued on July 17, 2023;
- Alphadera Labs, LLC's ALPHADx SARS–COV–2RT–PCR Test, issued on July 20, 2023;
- Laboratory Corporation of America's Clear Dx SARS–CoV–2 WGS v3.0 Test, issued on August 1, 2023; and
- 3EO Health, Inc.'s 3EO Health COVID–19 Test, issued on September 19, 2023.
- Tangen Biosciences, Inc.'s TangenDx SARS–CoV–2 Molecular Test, issued September 29, 2023;
- SD Biosensor, Inc.'s STANDARD Q COVID–19 Ag Test 2.0, issued September 29, 2023;
- MAWD Laboratories' MAWD Laboratories SARS–CoV–2 Dual Target by RT–PCR, issued on October 13, 2023;
- RCA Laboratory Services LLC dba GENETWORx's Gx HTIQ SARS–CoV–2 Test, issued December 08, 2023; and
- RCA Laboratory Services LLC dba GENETWORx's Gx HTKB SARS–CoV–2 Test, issued on December 08, 2023.

FDA is hereby announcing the following Authorizations for multianalyte tests:

- Princeton BioMeditech Corp's ViraDx SARS–CoV–2/Flu A+B Rapid Antigen Test, issued on September 8, 2023.[4]
- Roche Molecular Systems's cobas SARS–CoV–2 & Influenza A/B v2, issued on November 16, 2023.[5]

Dated: January 22, 2024.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2024–01426 Filed 1–24–24; 8:45 am]

BILLING CODE 4164–01–P

[3] As set forth in the EUAs for these products, FDA has concluded that: (1) SARS-CoV–2 can cause a serious or life-threatening disease or condition, including severe respiratory illness, to humans infected by this virus; (2) based on the totality of scientific evidence available to FDA, it is reasonable to believe that the products may be effective in diagnosing COVID–19, and that the known and potential benefits of the products, when used for diagnosing COVID–19, outweigh the known and potential risks of such products; and (3) there is no adequate, approved, and available alternative to the emergency use of the products.

[4] As set forth in the EUA for this product, FDA has concluded that: (1) SARS–CoV–2 can cause a serious or life-threatening disease or condition, including severe respiratory illness, to humans infected by this virus; (2) based on the totality of scientific evidence available to FDA, it is reasonable to believe that the product may be effective in diagnosing COVID–19 through the simultaneous detection and differentiation of SARS–CoV–2, influenza A virus and/or influenza B virus nucleocapsid protein antigens, and that the known and potential benefits of the product when used for diagnosing COVID–19, outweigh the known and potential risks of such product; and (3) there is no adequate, approved, and available alternative to the emergency use of the product.

[5] As set forth in the EUA for this product, FDA has concluded that: (1) SARS–CoV–2 can cause a serious or life-threatening disease or condition, including severe respiratory illness, to humans infected by this virus; (2) based on the totality of scientific evidence available to FDA, it is reasonable to believe that the product may be effective in diagnosing COVID–19 through the simultaneous qualitative detection and differentiation of SARS–CoV–2, influenza A virus and/or influenza B virus RNA, and that the known and potential benefits of the product when used for diagnosing COVID–19, outweigh the known and potential risks of such product; and (3) there is no adequate, approved, and available alternative to the emergency use of the product.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2022–E–0449]

Determination of Regulatory Review Period for Purposes of Patent Extension; CABENUVA

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or the Agency) has determined the regulatory review period for CABENUVA and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Director of the U.S. Patent and Trademark Office (USPTO), Department of Commerce, for the extension of a patent which claims that human drug product.

DATES: Anyone with knowledge that any of the dates as published (see **SUPPLEMENTARY INFORMATION**) are incorrect may submit either electronic or written comments and ask for a redetermination by March 25, 2024. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by July 23, 2024. See ''Petitions'' in the **SUPPLEMENTARY INFORMATION** section for more information.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of March 25, 2024. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

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

manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

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

Instructions: All submissions received must include the Docket No. FDA–2022–E–0449 for ''Determination of Regulatory Review Period for Purposes of Patent Extension; CABENUVA.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

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

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

FOR FURTHER INFORMATION CONTACT: Beverly Friedman, Office of Regulatory Policy, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6250, Silver Spring, MD 20993, 301–796–3600.

SUPPLEMENTARY INFORMATION:

I. Background

The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug or biologic product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: a testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Director of USPTO may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA has approved for marketing the human drug product CABENUVA (cabotegravir and rilpivirine). CABENUVA is indicated as a complete regimen for the treatment of HIV–1 infection in adults to replace the current antiretroviral regimen in those who are virologically suppressed (HIV–1 RNA less than 50 copies per mL) on a stable antiretroviral regimen with no history of treatment failure and with no known or suspected resistance to either cabotegravir or rilpivirine. Subsequent to this approval, the USPTO received a patent term restoration application for CABENUVA (U.S. Patent No. 8,410,103) from ViiV Healthcare Company and Shionogi & Co., Ltd. and the USPTO requested FDA's assistance in determining the patent's eligibility for patent term restoration. In a letter dated September 28, 2022, FDA advised the USPTO that this human drug product had undergone a regulatory review period and that the approval of CABENUVA represented the first permitted commercial marketing or use of the product. Thereafter, the USPTO requested that FDA determine the product's regulatory review period.

II. Determination of Regulatory Review Period

FDA has determined that the applicable regulatory review period for CABENUVA is 4,719 days. Of this time, 4,085 days occurred during the testing phase of the regulatory review period, while 634 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 355(i)) became effective:* February 22, 2008. FDA has verified the applicant's claim that the date the investigational new drug application became effective was on February 22, 2008.

2. *The date the application was initially submitted with respect to the human drug product under section 505 of the FD&C Act:* April 29, 2019. FDA has verified the applicant's claim that the new drug application (NDA) for CABENUVA (NDA 212888) was initially submitted on April 29, 2019.

3. *The date the application was approved:* January 21, 2021. FDA has verified the applicant's claim that NDA 212888 was approved on January 21, 2021.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the USPTO applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,742 days of patent term extension.

III. Petitions

Anyone with knowledge that any of the dates as published are incorrect may submit either electronic or written

comments and, under 21 CFR 60.24, ask for a redetermination (see **DATES**). Furthermore, as specified in § 60.30 (21 CFR 60.30), any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must comply with all the requirements of § 60.30, including but not limited to: must be timely (see **DATES**), must be filed in accordance with § 10.20, must contain sufficient facts to merit an FDA investigation, and must certify that a true and complete copy of the petition has been served upon the patent applicant. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Submit petitions electronically to *https://www.regulations.gov* at Docket No. FDA–2013–S–0610. Submit written petitions (two copies are required) to the Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Dated: January 22, 2024.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2024–01439 Filed 1–24–24; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2023–D–4761]

International Cooperation on Harmonisation of Technical Requirements for Registration of Veterinary Medicinal Products; Good Manufacturing Practice for Active Pharmaceutical Ingredients Used in Veterinary Medicinal Products; Draft Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a draft guidance for industry (GFI) #286 (VICH GL60) entitled ''Good Manufacturing Practice for Active Pharmaceutical Ingredients Used in Veterinary Medicinal Products.'' This draft guidance has been developed for veterinary use by the International Cooperation on Harmonisation of Technical Requirements for Registration of Veterinary Medicinal Products (VICH). The objective of this draft guidance is to provide recommendations regarding good manufacturing practice (GMP) for the manufacturing of active pharmaceutical ingredients (APIs) under an appropriate system for managing quality. It is also intended to help ensure that APIs meet the requirements for quality and purity that they purport or are represented to possess.

DATES: Submit either electronic or written comments on the draft guidance by March 25, 2024 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

ADDRESSES: You may submit comments on any guidance at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

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

Written/Paper Submissions

Submit written/paper submissions as follows:

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

Instructions: All submissions received must include the Docket No. FDA–2023–D–4761 for ''Good Manufacturing Practice for Active Pharmaceutical Ingredients Used in Veterinary Medicinal Products.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

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

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

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of the guidance to the Policy and Regulations Staff (HFV–6), Center for Veterinary Medicine, Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855. Send one self-addressed adhesive label to assist that office in processing your requests. See

the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT: Mai Huynh, Center for Veterinary Medicine (HFV–140), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 240–402–0669, *mai.huynh@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry GFI #286 (VICH GL60) entitled ''Good Manufacturing Practice for Active Pharmaceutical Ingredients Used in Veterinary Medicinal Products.'' The objective of this guidance is to provide recommendations regarding GMP for the manufacturing of APIs under an appropriate system for managing quality. It is also intended to help ensure that APIs meet the requirements for quality and purity that they purport or are represented to possess.

FDA has participated in efforts to enhance international harmonization and is committed to seeking scientifically based harmonized technical procedures for pharmaceutical development. One of the goals of harmonization is to identify, and then reduce, differences in technical requirements for drug development among regulatory agencies in different countries. FDA has actively participated in the International Council for Harmonisation of Technical Requirements for Pharmaceuticals for Human Use to develop harmonized technical requirements for the approval of human pharmaceutical and biological products among the European Union, Japan, and the United States. The VICH is a parallel initiative for veterinary medicinal products. The VICH is concerned with developing harmonized technical requirements for the approval of veterinary medicinal products in the European Union, Japan, and the United States, and includes input from both regulatory and industry representatives.

The VICH Steering Committee is composed of member representatives from the European Commission and European Medicines Agency; AnimalhealthEurope; FDA—Center for Veterinary Medicine and U.S. Department of Agriculture—Center for Veterinary Biologics; the U.S. Animal Health Institute; the Japanese Ministry of Agriculture, Forestry and Fisheries; and the Japanese Veterinary Products Association. There are 10 observers to the VICH Steering Committee: one representative from government and one representative from industry of Australia, New Zealand, Canada, South Africa, and the United Kingdom. The World Organisation for Animal Health is an associate member of the VICH. The VICH Secretariat, which coordinates the preparation of documentation, is provided by HealthforAnimals.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on ''Good Manufacturing Practice for Active Ingredients Used in Veterinary Medicinal Products.'' It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

II. Paperwork Reduction Act of 1995

While this guidance contains no collection of information, it does refer to previously approved FDA collections of information. The previously approved collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521). The collections of information in 21 CFR part 514 have been approved under OMB control number 0910–0032; and the collections of information in section 512(n)(1) of the FD&C Act (21 U.S.C. 360b(n)(1)) have been approved under OMB control number 0910–0669.

III. Electronic Access

Persons with access to the internet may obtain the draft guidance at *https://www.fda.gov/animal-veterinary/guidance-regulations/guidance-industry, https://www.fda.gov/regulatory-information/search-fda-guidance-documents,* or *https://www.regulations.gov.*

Dated: January 22, 2024.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2024–01441 Filed 1–24–24; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2022–D–0092]

Revising Abbreviated New Drug Application Labeling Following Revision of the Reference Listed Drug Labeling; Final Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a final guidance for industry entitled ''Revising ANDA Labeling Following Revision of the RLD Labeling.'' This guidance provides recommendations for updating labeling for abbreviated new drug applications (ANDAs) following revisions to the labeling of a reference listed drug (RLD), including information on how to identify RLD labeling updates and how to submit labeling updates to both unapproved and approved ANDAs to conform to RLD labeling updates. This guidance finalizes the draft guidance for industry of the same title issued on January 27, 2022.

DATES: The announcement of the guidance is published in the **Federal Register** on January 25, 2024.

ADDRESSES: You may submit electronic or written comments on Agency guidance at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

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

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management

Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2022–D–0092 for ''Revising ANDA Labeling Following Revision of the RLD Labeling.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

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

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

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of the guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

FOR FURTHER INFORMATION CONTACT: Jonathan Hughes, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 75, Rm. 1688, Silver Spring, MD 20993–0002, 301–796–9291, *Jonathan.Hughes@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a guidance for industry entitled ''Revising ANDA Labeling Following Revision of the RLD Labeling.'' This guidance provides recommendations for updating labeling for ANDAs following revisions to the labeling of an RLD, including information on how to identify RLD labeling updates and how to submit labeling updates to both unapproved and approved ANDAs to conform to RLD labeling updates.

A generic drug is generally required to have the same labeling as the RLD, except for changes required because of differences approved under a suitability petition (see section 505(j)(2)(C) of the Federal Food, Drug, and Cosmetic Act (FD&C Act)) (21 U.S.C. 355(j)(2)(C) and 21 CFR 314.93) or because the generic drug and the RLD are produced or distributed by different manufacturers (see *e.g.,* section 505(j)(2)(A)(v) of the FD&C Act and § 314.94(a)(8)(iv) (21 CFR 314.94(a)(8)(iv))). FDA will refuse to approve an ANDA if, among other things, it does not include such information regarding the proposed labeling (see *e.g.,* § 314.127(a)(7)). FDA regulations provide examples of permissible differences in labeling that may result when a proposed generic drug and the RLD are ''produced or distributed by different manufacturers,'' including the omission of an indication or other aspect of labeling protected by patent or exclusivity and ''labeling revisions made to comply with current FDA labeling guidelines or other guidance'' (§ 314.94(a)(8)(iv)).

An ANDA holder is expected to update its labeling after FDA has approved relevant changes to the labeling for the corresponding RLD. Prompt revision, submission to the Agency, and implementation of revised labeling are important to ensure that the generic drug continues to be as safe and effective as the corresponding RLD. Because the labeling of a generic drug must be the same as the labeling for the RLD, except for permissible differences, the revision should be made at the earliest time possible.

In this guidance, FDA is providing information on how ANDA applicants and holders should monitor for changes to RLD labeling, procedures for the electronic submission of labeling updates, information describing the type of submission that should be made to FDA, as well as other considerations for submitting a labeling update to FDA.

This guidance finalizes the draft guidance for industry of the same title issued on January 27, 2022 (87 FR 4252). The January 2022 draft guidance revised the final guidance for industry entitled ''Revising ANDA Labeling Following Revision of the RLD Labeling'' issued in April 2000. FDA considered comments received on the January 2022 draft guidance as the guidance was finalized. Minor revisions from the draft to the final guidance were made to improve clarity.

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the current thinking of FDA on ''Revising ANDA Labeling Following Revision of the RLD Labeling.'' It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

II. Paperwork Reduction Act of 1995

While this guidance contains no collection of information, it does refer to previously approved FDA collections of information. The previously approved collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3521).

The collections of information in part 314 (21 CFR part 314) for the submission of ANDAs (including the content and format of ANDAs and supplements and amendments) have been approved under OMB control number 0910–0001 and in part 314 (included under the 21 CFR parts 10 through 16 hearing regulations) under OMB control number 0910–0191.

The collections of information pertaining to the electronic submission of labeling changes have been approved under OMB control number 0910–0045. The collections of information pertaining to the content and format requirements for human prescription

drugs and biological products and the submission of such labeling have been approved under OMB control number 0910–0572.

III. Electronic Access

Persons with access to the internet may obtain the guidance at *https://www.fda.gov/drugs/guidance-compliance-regulatory-information/guidances-drugs, https://www.fda.gov/regulatory-information/search-fda-guidance-documents,* or *https://www.regulations.gov.*

Dated: January 22, 2024.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2024–01442 Filed 1–24–24; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2022–E–0448]

Determination of Regulatory Review Period for Purposes of Patent Extension; VOCABRIA

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or the Agency) has determined the regulatory review period for VOCABRIA and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Director of the U.S. Patent and Trademark Office (USPTO), Department of Commerce, for the extension of a patent which claims that human drug product.

DATES: Anyone with knowledge that any of the dates as published (see **SUPPLEMENTARY INFORMATION**) are incorrect may submit either electronic or written comments and ask for a redetermination by March 25, 2024. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by July 23, 2024. See ''Petitions'' in the **SUPPLEMENTARY INFORMATION** section for more information.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of March 25, 2024. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

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

Written/Paper Submissions

Submit written/paper submissions as follows:

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

Instructions: All submissions received must include the Docket No. FDA–2022–E–0448 for ''Determination of Regulatory Review Period for Purposes of Patent Extension; VOCABRIA.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

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

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

FOR FURTHER INFORMATION CONTACT: Beverly Friedman, Office of Regulatory Policy, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6250, Silver Spring, MD 20993, 301–796–3600.

SUPPLEMENTARY INFORMATION:

I. Background

The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug or biologic product, animal drug product, medical device, food additive, or color additive) was subject to

regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: a testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Director of USPTO may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA has approved for marketing the human drug product, VOCABRIA (cabotegravir sodium) indicated in combination with EDURANT (rilpivirine) for short-term treatment of Human Immunodeficiency Virus-1 (HIV–1) infection in adults who are virologically suppressed (HIV–1 RNA less than 50 copies/mL) on a stable antiretroviral regimen with no history of treatment failure and with no known or suspected resistance to either cabotegravir or rilpivirine, for use as:

- oral lead-in to assess the tolerability of cabotegravir prior to administration of CABENUVA (cabotegravir; rilpivirine) extended-release injectable suspensions and
- oral therapy for patients who will miss planned injection dosing with CABENUVA.

Subsequent to this approval, the USPTO received a patent term restoration application for VOCABRIA (U.S. Patent No. 8,410,103) from ViiV Healthcare Company and the USPTO requested FDA's assistance in determining the patent's eligibility for patent term restoration. In a letter September 28, 2022, FDA advised the USPTO that this human drug product had undergone a regulatory review period and that the approval of VOCABRIA represented the first permitted commercial marketing or use of the product. Thereafter, the USPTO requested that FDA determine the product's regulatory review period.

II. Determination of Regulatory Review Period

FDA has determined that the applicable regulatory review period for VOCABRIA is 4,719 days. Of this time, 4,085 days occurred during the testing phase of the regulatory review period, while 634 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 355(i)) became effective:* February 22, 2008. FDA has verified the applicant's claim that the date the investigational new drug application became effective was on February 22, 2008.

2. *The date the application was initially submitted with respect to the human drug product under section 505 of the FD&C Act:* April 29, 2019. FDA has verified the applicant's claim that the new drug application (NDA) for VOCABRIA (NDA 212887) was initially submitted on April 29, 2019.

3. *The date the application was approved:* January 21, 2021. FDA has verified the applicant's claim that NDA 212887 was approved on January 21, 2021.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the USPTO applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,742 days of patent term extension.

III. Petitions

Anyone with knowledge that any of the dates as published are incorrect may submit either electronic or written comments and, under 21 CFR 60.24, ask for a redetermination (see **DATES**). Furthermore, as specified in § 60.30 (21 CFR 60.30), any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must comply with all the requirements of § 60.30, including but not limited to: must be timely (see **DATES**), must be filed in accordance with § 10.20, must contain sufficient facts to merit an FDA investigation, and must certify that a true and complete copy of the petition has been served upon the patent applicant. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Submit petitions electronically to *https://www.regulations.gov* at Docket No. FDA–2013–S–0610. Submit written petitions (two copies are required) to the Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Dated: January 22, 2024.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2024–01438 Filed 1–24–24; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Solicitation of Nominations for Membership To Serve on the National Advisory Council on Nurse Education and Practice

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services (HHS).

ACTION: Request for nominations.

SUMMARY: HRSA is seeking nominations of qualified candidates to consider for appointment as members of the National Advisory Council on Nurse Education and Practice (NACNEP). NACNEP provides advice and recommendations to the Secretary of HHS (Secretary) on policy, program development, and other matters of significance concerning the activities under Title VIII of the Public Health Service (PHS) Act, including the range of issues relating to the nurse workforce, education, and practice improvement. NACNEP also prepares and submits an annual report to the Secretary and Congress describing its activities, including NACNEP's findings and recommendations concerning activities under Title VIII, as required by the PHS Act. HRSA is seeking nominations of qualified candidates to fill up to 11 open positions on NACNEP.

DATES: HRSA will accept nominations for membership on NACNEP on a continuous basis.

ADDRESSES: Nomination packages may be submitted electronically by email to *BHWAdvisoryCouncil@hrsa.gov.* Nomination packages may also be submitted by mail addressed to Advisory Council Operations, Bureau of Health Workforce, HRSA, 5600 Fishers Lane, Room 15W10, Rockville, Maryland 20857.

FOR FURTHER INFORMATION CONTACT: Dr. Justin Bala-Hampton, Designated Federal Officer, NACNEP, by phone at (301) 443–2866, or by email at *BHWNACNEP@hrsa.gov.* A copy of the

NACNEP charter and a list of the current membership may be obtained by accessing the NACNEP website at *https://www.hrsa.gov/advisory-committees/nursing.*

SUPPLEMENTARY INFORMATION: NACNEP advises and makes recommendations to the Secretary and Congress on policy matters arising in the administration of Title VIII of the PHS Act, including the range of issues relating to the nurse workforce, nursing education, and nursing practice improvement, as a means of enhancing the health of the public through the development of the nurse workforce. NACNEP meets at least twice each calendar year or may meet more frequently at the discretion of the Designated Federal Officer in consultation with the Chair.

Nominations: HRSA is requesting nominations for voting members to serve as Special Government Employees (SGE) on NACNEP to fill open positions. The Secretary appoints NACNEP members with the expertise needed to fulfill the duties of the Advisory Council. The membership requirements are set forth at section 851(b) of Title VIII of the PHS Act, as amended.

Nominees sought are individuals representing leading authorities in the various fields of nursing, higher and secondary education, and associate degree schools of nursing; representatives of advanced education nursing groups (such as nurse practitioners, nurse midwives, clinical nurse specialists, and nurse anesthetists); hospitals and other institutions and organizations which provide nursing services; practicing professional nurses; the general public; and full-time students enrolled in schools of nursing. In making such appointments, the Secretary shall ensure a fair balance between the nursing specialties, a broad geographic representation of members, and a balance between urban and rural members. Members shall be appointed based on their competence, interest, and knowledge of the mission of the profession involved. As required by PHS Act section 851(b)(3), the Secretary shall ensure the adequate representation of minorities. HRSA is particularly interested in seeking nominations from individuals who can represent underrepresented groups in the nursing profession.

The majority of NACNEP members shall be nurses. Interested applicants may self-nominate or be nominated by another individual or organization.

Individuals selected for appointment to NACNEP will be invited to serve a term of 4 years. Members appointed as SGEs receive a stipend and reimbursement for per diem and travel expenses incurred for attending NACNEP meetings and/or conducting other business on behalf of NACNEP, as authorized by section 5 U.S.C. 5703 for persons employed intermittently in government service and PHS Act section 762(g).

The following information must be included in the package of materials submitted for each individual nominated for consideration: (1) if nominated by another individual or organization, a letter of nomination from the nominator stating the basis for the nomination (*i.e.,* what specific attributes, perspectives, and/or skills does the individual possess that would benefit the workings of NACNEP, and the nominee's field(s) of expertise), as well as the nominator's name, affiliation, and contact information (address, daytime telephone number, and email address); (2) letter of interest from the applicant stating the reasons the applicant would like to serve on NACNEP; (3) a biographical sketch of the applicant, including the applicant's curriculum vitae and contact information (address, daytime telephone number, and email address). Nomination packages may be submitted directly by the applicant or by the person/organization nominating the candidate.

HHS endeavors to ensure that the membership of NACNEP is balanced fairly in terms of points of view represented. Appointments shall be made without discrimination of age, race, ethnicity, gender, sexual orientation, or cultural, religious, or socioeconomic status.

Individuals who are selected to be considered for appointment will be required to provide detailed information regarding their financial holdings, consultancies, and research grants or contracts. Disclosure of this information is required for HRSA ethics officials to determine whether there is a potential conflict of interest between the SGE's public duties as a member of NACNEP and their private interests, including an appearance of a loss of impartiality as defined by federal laws and regulations, and to identify any required remedial action needed to address the potential conflict.

Authority: NACNEP is authorized by section 851 of the PHS Act (*42 U.S.C. 297t*), as amended. NACNEP is governed by provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C. Chapter 10).

Maria G. Button,

Director, Executive Secretariat.

[FR Doc. 2024–01396 Filed 1–24–24; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

National Vaccine Injury Compensation Program; List of Petitions Received

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: HRSA is publishing this notice of petitions received under the National Vaccine Injury Compensation Program (the Program), as required by the Public Health Service (PHS) Act, as amended. While the Secretary of HHS is named as the respondent in all proceedings brought by the filing of petitions for compensation under the Program, the United States Court of Federal Claims is charged by statute with responsibility for considering and acting upon the petitions.

FOR FURTHER INFORMATION CONTACT: For information about requirements for filing petitions, and the Program in general, contact Lisa L. Reyes, Clerk of Court, United States Court of Federal Claims, 717 Madison Place NW, Washington, DC 20005, (202) 357–6400. For information on HRSA's role in the Program, contact the Director, National Vaccine Injury Compensation Program, 5600 Fishers Lane, Room 08W–25A, Rockville, Maryland 20857; (301) 443–6593, or visit our website at: *https://www.hrsa.gov/vaccinecompensation/index.html.*

SUPPLEMENTARY INFORMATION: The Program provides a system of no-fault compensation for certain individuals who have been injured by specified childhood vaccines. Subtitle 2 of Title XXI of the PHS Act, 42 U.S.C. 300aa–10 *et seq.,* provides that those seeking compensation are to file a petition with the United States Court of Federal Claims and to serve a copy of the petition to the Secretary of HHS, who is named as the respondent in each proceeding. The Secretary has delegated this responsibility under the Program to HRSA. The Court is directed by statute to appoint special masters who take evidence, conduct hearings as appropriate, and make initial decisions

as to eligibility for, and amount of, compensation.

A petition may be filed with respect to injuries, disabilities, illnesses, conditions, and deaths resulting from vaccines described in the Vaccine Injury Table (the Table) set forth at 42 CFR 100.3. This Table lists for each covered childhood vaccine the conditions that may lead to compensation and, for each condition, the time period for occurrence of the first symptom or manifestation of onset or of significant aggravation after vaccine administration. Compensation may also be awarded for conditions not listed in the Table and for conditions that are manifested outside the time periods specified in the Table, but only if the petitioner shows that the condition was caused by one of the listed vaccines.

Section 2112(b)(2) of the PHS Act, 42 U.S.C. 300aa–12(b)(2), requires that ''[w]ithin 30 days after the Secretary receives service of any petition filed under section 2111 the Secretary shall publish notice of such petition in the **Federal Register**.'' Set forth below is a list of petitions received by HRSA on December 1, 2023, through December 31, 2023. This list provides the name of the petitioner, city, and state of vaccination (if unknown then the city and state of the person or attorney filing the claim), and case number. In cases where the Court has redacted the name of a petitioner and/or the case number, the list reflects such redaction.

Section 2112(b)(2) also provides that the special master ''shall afford all interested persons an opportunity to submit relevant, written information'' relating to the following:

1. The existence of evidence ''that there is not a preponderance of the evidence that the illness, disability, injury, condition, or death described in the petition is due to factors unrelated to the administration of the vaccine described in the petition,'' and

2. Any allegation in a petition that the petitioner either:

a. ''[S]ustained, or had significantly aggravated, any illness, disability, injury, or condition not set forth in the Vaccine Injury Table but which was caused by'' one of the vaccines referred to in the Table, or

b. ''[S]ustained, or had significantly aggravated, any illness, disability, injury, or condition set forth in the Vaccine Injury Table the first symptom or manifestation of the onset or significant aggravation of which did not occur within the time period set forth in the Table but which was caused by a vaccine'' referred to in the Table.

In accordance with section 2112(b)(2), all interested persons may submit written information relevant to the issues described above in the case of the petitions listed below. Any person choosing to do so should file an original and three (3) copies of the information with the Clerk of the United States Court of Federal Claims at the address listed above (under the heading ''For Further Information Contact''), with a copy to HRSA addressed to Director, Division of Injury Compensation Programs, Health Systems Bureau, 5600 Fishers Lane, 08W–25A, Rockville, Maryland 20857. The Court's caption (Petitioner's Name v. Secretary of HHS) and the docket number assigned to the petition should be used as the caption for the written submission. Chapter 35 of title 44, United States Code, related to paperwork reduction, does not apply to information required for purposes of carrying out the Program.

Carole Johnson,

Administrator.

List of Petitions Filed

1. Joanne Teixeira, Niagara Falls, New York, Court of Federal Claims No: 23–2057V
2. Jose Guzman, Boston, Massachusetts, Court of Federal Claims No: 23–2059V
3. Christian Robertson, Stockbridge, Georgia, Court of Federal Claims No: 23–2060V
4. Michelle Russell on behalf of Barbara Plummer, Deceased, Grove City, Ohio, Court of Federal Claims No: 23–2064V
5. Kyra Albanese on behalf of L. A., Niagara Falls, New York, Court of Federal Claims No: 23–2065V
6. Mark Johnson, Riverside, California, Court of Federal Claims No: 23–2069V
7. Francesca Ciofalo, New York, New York, Court of Federal Claims No: 23–2070V
8. Samantha Denby, Seattle, Washington, Court of Federal Claims No: 23–2071V
9. Catrina Smith, Nacogdoches, Texas, Court of Federal Claims No: 23–2073V
10. Ellen Einhorn, Boston, Massachusetts, Court of Federal Claims No: 23–2074V
11. Bradley Woodward, Boston, Massachusetts, Court of Federal Claims No: 23–2075V
12. Samantha Sheets on behalf of K. H., Gallipolis, Ohio, Court of Federal Claims No: 23–2078V
13. Michelle Johnston, Edmond, Oklahoma, Court of Federal Claims No: 23–2079V
14. Joshua Dunn, Miami, Florida, Court of Federal Claims No: 23–2082V
15. Alan Thielemann, Alpharetta, Georgia, Court of Federal Claims No: 23–2083V
16. Tracey Lavin, Boston, Massachusetts, Court of Federal Claims No: 23–2084V
17. Steven Dimedio, Dresher, Pennsylvania, Court of Federal Claims No: 23–2085V
18. Jeffrey P. Abrahams, Gig Harbor, Washington, Court of Federal Claims No: 23–2090V
19. Carolyn White, Weston, Florida, Court of Federal Claims No: 23–2091V
20. Kate Stephens, Richmond, Virginia, Court of Federal Claims No: 23–2092V
21. Virginia Halton, Boston, Massachusetts, Court of Federal Claims No: 23–2093V
22. Angelina Perrotta, Arlington Heights, Illinois, Court of Federal Claims No: 23–2096V
23. Fred S. Alba, Jr., Park Ridge, Illinois, Court of Federal Claims No: 23–2098V
24. Cory Jubinville and Olga Jubinville on behalf of W. J., Eastchester, New York, Court of Federal Claims No: 23–2100V
25. Brian Citizen, Sarasota, Florida, Court of Federal Claims No: 23–2101V
26. Lauren Horan, Wellesley, Massachusetts, Court of Federal Claims No: 23–2102V
27. Shiori Yodono, Chicago, Illinois, Court of Federal Claims No: 23–2103V
28. Molly Converse, San Antonio, Texas, Court of Federal Claims No: 23–2104V
29. Gary Hayes, Jacksonville, Arkansas, Court of Federal Claims No: 23–2105V
30. Deborah Martin, Boston, Massachusetts, Court of Federal Claims No: 23–2106V
31. Cherrie Brower, New Florence, Missouri, Court of Federal Claims No: 23–2107V
32. Jeannine Forsyth, Gordonville, Pennsylvania, Court of Federal Claims No: 23–2108V
33. Barbara Glotzbecker, Gansevoort, New York, Court of Federal Claims No: 23–2109V
34. Amy Jean, Lake Oswego, Oregon, Court of Federal Claims No: 23–2110V
35. Carolyn Mead, Lakeport, California, Court of Federal Claims No: 23–2111V
36. Yuze Shao, New Orleans, Louisiana, Court of Federal Claims No: 23–2115V
37. Esmerida Perez on behalf of M. P., Shawnee Mission, Kansas, Court of Federal Claims No: 23–2118V

38. John P. Lynch, Redondo Beach, California, Court of Federal Claims No: 23–2119V
39. Yuanith Juarez, Coral Gables, Florida, Court of Federal Claims No: 23–2120V
40. Angela Ferrante, Dresher, Pennsylvania, Court of Federal Claims No: 23–2123V
41. Stephanie Wilson, Yarmouth, Maine, Court of Federal Claims No: 23–2124V
42. Sonia Garza, Garland, Texas, Court of Federal Claims No: 23–2125V
43. Tyler Waltman, Dresher, Pennsylvania, Court of Federal Claims No: 23–2126V
44. Chelsea Serra, Atlanta, Georgia, Court of Federal Claims No: 23–2129V
45. Kimberly Cole, Newport Beach, California, Court of Federal Claims No: 23–2130V
46. Betty Duncan, Charlottesville, Virginia, Court of Federal Claims No: 23–2131V
47. Trina Randall on behalf of C. B., Wylie, Texas, Court of Federal Claims No: 23–2132V
48. Cynthia McCoy, Sacramento, California, Court of Federal Claims No: 23–2133V
49. Christa Kekahuna on behalf of K. K., Anthem Hills, Nevada, Court of Federal Claims No: 23–2134V
50. Dianne Benjamin, University City, Missouri, Court of Federal Claims No: 23–2137V
51. Lowell Parsley, Boston, Massachusetts, Court of Federal Claims No: 23–2138V
52. Kristie Houle, Boston, Massachusetts, Court of Federal Claims No: 23–2139V
53. Danielle Bailey on behalf of C. B., Raleigh, North Carolina, Court of Federal Claims No: 23–2140V
54. Kay Spacht, Tyrone, Pennsylvania, Court of Federal Claims No: 23–2141V
55. Norine Busser, Chicago, Illinois, Court of Federal Claims No: 23–2142V
56. Terri Fischer, McConnelsville, Ohio, Court of Federal Claims No: 23–2143V
57. Amira Watson, Chula Vista, California, Court of Federal Claims No: 23–2144V
58. Mark Gallo, New Lenox, Illinois, Court of Federal Claims No: 23–2145V
59. Angela Ayala-Valdez, San Jose, California, Court of Federal Claims No: 23–2148V
60. Julie Pace, Monroe, Louisiana, Court of Federal Claims No: 23–2149V
61. Raymond Roberts, Las Vegas, Nevada, Court of Federal Claims No: 23–2150V
62. Shawanda O'Brien, Washington, District of Columbia, Court of Federal Claims No: 23–2151V
63. Blanca Chavarria, Palm Coast, Florida, Court of Federal Claims No: 23–2152V
64. Diana Bair, New Castle, Pennsylvania, Court of Federal Claims No: 23–2154V
65. Ariana Martinez, Sacramento, California, Court of Federal Claims No: 23–2155V
66. Scott O'Keefe, Seattle, Washington, Court of Federal Claims No: 23–2156V
67. Dona Basiege, Philadelphia, Pennsylvania, Court of Federal Claims No: 23–2159V
68. Caitlin Yohannes, Savage, Minnesota, Court of Federal Claims No: 23–2160V
69. Zahraa Alhroub on behalf of N. A., Phoenix, Arizona, Court of Federal Claims No: 23–2161V
70. Ryley White, Kalamazoo, Michigan, Court of Federal Claims No: 23–2165V
71. Amber Linck, Los Angeles, California, Court of Federal Claims No: 23–2166V
72. Chantal Meyers, Georgetown, Delaware, Court of Federal Claims No: 23–2167V
73. Chloe Lumpkin, Kingfisher, Oklahoma, Court of Federal Claims No: 23–2170V
74. Candace Reynoso, Charlotte, North Carolina, Court of Federal Claims No: 23–2171V
75. Stacy Smith, New Castle, Pennsylvania, Court of Federal Claims No: 23–2173V
76. Russell Johnson, Rialto, California, Court of Federal Claims No: 23–2174V
77. Steve M. Steinhour, Tacoma, Washington, Court of Federal Claims No: 23–2175V
78. Indira Sukhraj, Winter Haven, Florida, Court of Federal Claims No: 23–2176V
79. Timothy Cestaro and Flavia Cestaro on behalf of J. C., Phoenix, Arizona, Court of Federal Claims No: 23–2178V
80. Vickie Beard, Crofton, Maryland, Court of Federal Claims No: 23–2179V
81. Kianna Nassersharif, Boston, Massachusetts, Court of Federal Claims No: 23–2190V
82. William Jeffery, Boston, Massachusetts, Court of Federal Claims No: 23–2192V
83. Lori Miller, Buffalo, Minnesota, Court of Federal Claims No: 23–2193V
84. Sharon Brown, Chicago, Illinois, Court of Federal Claims No: 23–2195V
85. Angelica Iris Flores Quintero, San Francisco, California, Court of Federal Claims No: 23–2198V
86. Nash James Devita, Casa Grande, Arizona, Court of Federal Claims No: 23–2199V
87. John McCann, Los Angeles, California, Court of Federal Claims No: 23–2200V

[FR Doc. 2024–01406 Filed 1–24–24; 8:45 am]

BILLING CODE 4165–15–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: Population Sciences Study Section.

Date: March 5, 2024.

Time: 9:00 a.m. to 11:00 a.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 20892 (Virtual Meeting).

Contact Person: Vera A. Cherkasova, Ph.D., Scientific Review Branch, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, 6710B Rockledge Drive, Room 2137B, Bethesda, MD 20892, (240) 478–4580, *vera.cherkasova@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 19, 2024.

Lauren A. Fleck.

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–01428 Filed 1–24–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director, National Institutes of Health; Notice of Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the Office of AIDS Research Advisory Council.

The meeting will be held as a virtual meeting and will be open to the public as indicated below. Individuals who plan to view the virtual meeting and need special assistance or other reasonable accommodations to view the meeting, should notify the Contact Person listed below in advance of the meeting. The meeting can be accessed from the NIH Videocast at the following link: *https://videocast.nih.gov/.*

Name of Committee: Office of AIDS Research Advisory Council.

Date: February 22, 2023.

Time: 12:15 p.m. to 4:00 p.m.

Agenda: The sixty-fifth meeting of the Office of AIDS Research Advisory Council (OARAC) will feature an update on the processes to develop the FY 2026–2030 NIH Strategic Plan for HIV and HIV-related Research. Other agenda topics include the OAR Director's Report; updates from the Clinical Guidelines Working Groups of OARAC; report outs from Advisory Council Representatives; and public comment.

Place: Office of AIDS Research, Office of the Director, NIH, 5601 Fishers Lane, Rockville, MD 20852 (Virtual Meeting), *https://videocast.nih.gov/watch=54113.*

Contact Person: RDML Timothy H. Holtz, MD, MPH, Office of AIDS Research, Office of the Director, NIH, 5601 Fishers Lane, Room 2E61, Rockville, MD 20852, (301) 496–0357, *OARACinfo@nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Institute's/Center's home page: *www.oar.nih.gov,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.14, Intramural Research Training Award; 93.22, Clinical Research Loan Repayment Program for Individuals from Disadvantaged Backgrounds; 93.232, Loan Repayment Program for Research Generally; 93.39, Academic Research Enhancement Award; 93.936, NIH Acquired Immunodeficiency Syndrome Research Loan Repayment Program; 93.187, Undergraduate Scholarship Program for Individuals from Disadvantaged Backgrounds, National Institutes of Health, HHS)

Dated: January 19, 2024.

Lauren A. Fleck,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–01458 Filed 1–24–24; 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 Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Eunice Kennedy Shriver National Institute of Child Health and Human Development Special Emphasis Panel; Loan Repayment Program.

Date: March 22, 2024.

Time: 7:00 a.m. to 9:00 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: Christiane Robbins, Ph.D., Scientific Review Officer, Scientific Review Branch, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, DHHS, 6710B Rockledge Drive, Rm. 2121B, Bethesda, MD 20817, (301) 451–4989, *crobbins@mail.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 22, 2024.

Lauren A. Fleck,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–01424 Filed 1–24–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR–23–137: Science Education Partnership Award (SEPA) R25.

Date: February 14, 2024.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: James J. Li, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5148, MSC 7849, Bethesda, MD 20892, 301–806–8065, *lijames@csr.nih.gov.*

Name of Committee: Digestive, Kidney and Urological Systems Integrated Review Group; Digestive and Nutrient Physiology and Diseases Study Section.

Date: February 15–16, 2024.

Time: 8:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Canopy by Hilton, 940 Rose Avenue, North Bethesda, MD 20852.

Contact Person: Aster Juan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20817, 301–435–5000. *juana2@mail.nih.gov.*

Name of Committee: Infectious Diseases and Immunology A Integrated Review Group; Bacterial Virulence Study Section.

Date: February 15–16, 2024.

Time: 8:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: North Bethesda Marriott Hotel & Conference Center, Montgomery County Conference Center Facility, 5701 Marinelli Road, North Bethesda, MD 20852.

Contact Person: Susan Daum, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3202, Bethesda, MD 20892, 301–827–7233, *susan.boyle-vavra@nih.gov.*

Name of Committee: Cardiovascular and Respiratory Sciences Integrated Review Group; Lung Injury, Repair, and Remodeling Study Section.

Date: February 15–16, 2024.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Ghenima Dirami, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4122, MSC 7814, Bethesda, MD 20892, 240–498–7546, *diramig@csr.nih.gov.*

Name of Committee: Endocrinology, Metabolism, Nutrition and Reproductive Sciences Integrated Review Group; Human Studies of Diabetes and Obesity Study Section.

Date: February 15–16, 2024.

Time: 8:30 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW, Washington, DC 20015.

Contact Person: Hui Chen, MD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6164, Bethesda, MD 20892, (301) 435–1044, *chenhui@csr.nih.gov.*

Name of Committee: Interdisciplinary Molecular Sciences and Training Integrated Review Group; Emerging Imaging Technologies in Neuroscience Study Section.

Date: February 15–16, 2024.

Time: 9:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Rachel Anne Kane, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Dr., Bethesda, MD 20892, (301) 496–0221, *kanera@csr.nih.gov.*

Name of Committee: Risk, Prevention and Health Behavior Integrated Review Group; Lifestyle Change and Behavioral Health Study Section.

Date: February 15–16, 2024.

Time: 9:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Pamela Jeter, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 10J08, Bethesda, MD 20892, (301) 827–6401, *pamela.jeter@nih.gov.*

Name of Committee: Cardiovascular and Respiratory Sciences Integrated Review Group; Clinical Integrative Cardiovascular and Hematological Sciences Study Section.

Date: February 15–16, 2024.

Time: 9:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Sara Ahlgren, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, RM 4136, Bethesda, MD 20892, 301–435–0904, *sara.ahlgren@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA–DA–24–039: NIH Blueprint for Neuroscience Research: Tools and Technologies to Explore Nervous System Biomolecular Condensates (R21 Clinical Trial Not Allowed).

Date: February 15, 2024.

Time: 9:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Jennifer Kielczewski, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 435–1042, *jennifer.kielczewski@nih.gov.*

Name of Committee: Molecular, Cellular and Developmental Neuroscience Integrated Review Group; Neurogenesis and Cell Fate Study Section.

Date: February 15, 2024.

Time: 9:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Adem Can, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4190, MSC 7850, Bethesda, MD 20892, (301) 435–1042, *cana2@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: January 19, 2024.

David W. Freeman,

Supervisory Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–01372 Filed 1–24–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meetings

Pursuant to section 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 on Drug Abuse Special Emphasis Panel; NIH Support for Conferences and Scientific Meetings.

Date: February 22, 2024.

Time: 12:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, National Institute on Drug Abuse, 301 North Stonestreet Avenue, Bethesda, MD 20892.

Contact Person: Ipolia R. Ramadan, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Research, National Institute on Drug Abuse, NIH, 301 North Stonestreet Avenue, MSC 6021, Bethesda, MD 20892, (301) 827–4471, *ramadanir@mail.nih.gov.*

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; Accelerating the Pace of Drug Abuse Research Using Existing Data.

Date: February 29, 2024.

Time: 10:00 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, National Institute on Drug Abuse, 301 North Stonestreet Avenue, Bethesda, MD 20892.

Contact Person: Li Rebekah Feng, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute on Drug Abuse, NIH, 301 North Stonestreet Avenue, MSC 6021, Bethesda, MD 20892, (301) 827–7245, *rebekah.feng@nih.gov.*

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; NIDA Centers Grant Program.

Date: March 6, 2024.

Time: 9:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, National Institute on Drug Abuse, 301 North Stonestreet Avenue, Bethesda, MD 20892.

Contact Person: Preethy Nayar, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute on Drug Abuse,

NIH, 301 North Stonestreet Avenue, MSC 6021, Bethesda, MD 20892, (301) 443–4577, *nayarp2@csr.nih.gov.*

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; Mechanistic Studies to Investigate the Interrelationship Between Sleep and/or Circadian Rhythms and Substance Use Disorders.

Date: March 22, 2024.

Time: 11:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, National Institute on Drug Abuse, 301 North Stonestreet Avenue, Bethesda, MD 20892.

Contact Person: Brian Stefan Wolff, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Research, National Institute on Drug Abuse, NIH, 301 North Stonestreet Avenue, MSC 6021, Bethesda, MD 20852. (301) 480–1448, *brian.wolff@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.277, Drug Abuse Scientist Development Award for Clinicians, Scientist Development Awards, and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse and Addiction Research Programs, National Institutes of Health, HHS)

Dated: January 19, 2024.

Lauren A. Fleck,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–01430 Filed 1–24–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Human Genome Research Institute; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Human Genome Research Institute Special Emphasis Panel; NSF Program—EDGE Research.

Date: February 5, 2024.

Time: 11:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Human Genome Research Institute, National Institutes of Health, 6700B Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Rudy O. Pozzatti, Ph.D., Scientific Review Officer, Scientific Review Branch, National Human Genome Research Institute, National Institutes of Health, 6700B Rockledge Drive, MSC 6908, Bethesda, MD 20892, (301) 402–8739, *pozzattr@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.172, Human Genome Research, National Institutes of Health, HHS)

Dated: January 22, 2024.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–01425 Filed 1–24–24; 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; National Centers for Translational Research in Reproduction and Infertility (P50 Clinical Trial Optional).

Date: March 28–29, 2024.

Time: 9:00 a.m. to 5:00 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 20892 (Virtual Meeting).

Contact Person: Jagpreet Singh Nanda, Ph.D., Scientific Review Branch, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, 6710B Rockedge Drive, Room 2125D, Bethesda, MD 20892, (301) 451–4454, *jagpreet.nanda@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 19, 2024.

Lauren A. Fleck,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–01422 Filed 1–24–24; 8:45 am]

BILLING CODE 4140–01–P

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Notice of Performance Review Board

AGENCY: Advisory Council on Historic Preservation.

ACTION: Notice of performance review board.

SUMMARY: Appointment of individuals to serve as members of the Performance Review Board.

DATES: These appointments are applicable on January 22, 2024.

FOR FURTHER INFORMATION CONTACT: Javier E. Marqués, General Counsel, Advisory Council on Historic Preservation, *jmarques@achp.gov;* 202–517–0192.

SUPPLEMENTARY INFORMATION: The Chair of the Advisory Council on Historic Preservation (ACHP) has appointed the following individuals to serve on the ACHP's Performance Review Board (PRB):

Chairperson of the PRB: Kristopher B. King
Member—Dr. Teresa R. Pohlman
Member—Joy Beasley

Authority: 5 U.S.C. 4314(c)(4).

Dated: January 22, 2024.

Javier E. Marqués,

General Counsel.

[FR Doc. 2024–01476 Filed 1–24–24; 8:45 am]

BILLING CODE 4310–K6–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS–R2–ES–2023–N105; FXES11130200000–245–FF02ENEH00]

Endangered and Threatened Wildlife and Plants; Initiation of 5-Year Status Reviews of 22 Species in the Southwest

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of initiation of reviews; request for information.

SUMMARY: We, the U.S. Fish and Wildlife Service, are conducting 5-year status reviews under the Endangered Species Act, of 22 animal and plant species. A 5-year status review is based on the best scientific and commercial data available at the time of the review; therefore, we are requesting submission of any such information that has become available since the last reviews for the species.

DATES: To ensure consideration, we are requesting submission of new information no later than February 26, 2024. However, we will continue to accept new information about any listed species at any time.

ADDRESSES: For details on how to request or submit information, see Request for Information and How Do I Ask Questions or Provide Information? in the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: For information on a particular species, contact the appropriate person or office listed in the table in the **SUPPLEMENTARY INFORMATION** section. For general information, contact Beth Forbus, by telephone at 505–248–6681; or by email at *Beth_Forbus@fws.gov*.

Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION:

Why do we conduct 5-year reviews?

Under the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), we maintain Lists of Endangered and Threatened Wildlife and Plants (which we collectively refer to as the List) in the Code of Federal Regulations (CFR) at 50 CFR 17.11 (for animals) and 17.12 (for plants). Section 4(c)(2)(A) of the ESA requires us to review each listed species' status at least once every 5 years. Our regulations at 50 CFR 424.21 require that we publish a notice in the **Federal Register** announcing those species under active review. For additional information about 5-year status reviews, refer to our factsheet at *https://www.fws.gov/project/five-year-status-reviews*.

What information do we consider in our review?

A 5-year status review considers all new information available at the time of the review. In conducting these reviews, we consider the best scientific and commercial data that have become available since the listing determination or most recent status review, such as:

(A) Species biology, including but not limited to population trends, distribution, abundance, demographics, and genetics;

(B) Habitat conditions, including but not limited to amount, distribution, and suitability;

(C) Conservation measures that have been implemented that benefit the species;

(D) Threat status and trends in relation to the five listing factors (as defined in section 4(a)(1) of the ESA); and

(E) Other new information, data, or corrections, including but not limited to taxonomic or nomenclatural changes, identification of erroneous information contained in the List, and improved analytical methods.

Any new information will be considered during the 5-year status review and will also be useful in evaluating the ongoing recovery programs for the species.

Which species are under review?

The species in the following table are under active 5-year status review.

Common name	Scientific name	Listing status	Lead state	Final listing rule (**Federal Register** citation and publication date)	Contact person, phone, email	Contact person's U.S. mail address
ANIMALS						
Comal Springs dryopid beetle.	*Stygoparnus comalensis*.	Endangered ...	Texas	62 FR 66295; 12/18/1997.	Karen Myers, Field Supervisor, 512–490–0057 (phone) or *karen_myers@fws.gov* (email).	U.S. Fish and Wildlife Service, Austin Ecological Services Office, 10711 Burnet Road, Suite 200, Austin, TX 78758.
Comal Springs riffle beetle.	*Heterelmis comalensis*	Endangered ...	Texas	62 FR 66295; 12/18/1997.		
Mexican long-nosed bat	*Leptonycteris nivalis* ..	Endangered ...	Texas	53 FR 38456; 9/30/1988.		
Peck's Cave amphipod	*Stygobromus (=Stygonectes) pecki*.	Endangered ...	Texas	62 FR 66295; 12/18/1997.		
Government Canyon Bat Cave meshweaver.	*Cicurina vespera*	Endangered ...	Texas	65 FR 81419; 12/26/2000.		
Comanche Springs pupfish.	*Cyprinodon elegans* ...	Endangered ...	Texas	32 FR 4001; 3/11/1967.		
Leon Springs pupfish ...	*Cyprinodon bovinus* ...	Endangered ...	Texas	45 FR 54678; 8/15/1980.		
San Marcos salamander.	*Eurycea nana*	Threatened	Texas	45 FR 47355; 7/14/1980.		
Gulf Coast jaguarundi ..	*Herpailurus (=Felis) yagouaroundi cacomitli*.	Endangered ...	Texas	41 FR 24062; 6/14/1976.	Field Supervisor, 281–286–8282 (phone) or *HoustonESFO@fws.gov* (email).	U.S. Fish and Wildlife Service, Texas Coastal Ecological Services Field Office, 17629 El Camino Real, Suite 211, Houston, TX 77058.
American burying beetle	*Nicrophorus americanus*.	Threatened	Oklahoma ...	54 FR 29652; 7/13/1989.	Field Office Supervisor, 918–581–7458 (phone), or *OKProjectReview@fws.gov* (email).	U.S. Fish and Wildlife Service, Oklahoma Ecological Services Field Office, 9014 East 21st Street, Tulsa, OK 74129.

Common name	Scientific name	Listing status	Lead state	Final listing rule (**Federal Register** citation and publication date)	Contact person, phone, email	Contact person's U.S. mail address
Whooping crane	*Grus americana*	Threatened	Texas	32 FR 4001; 3/11/1967.	Kevin McAbee, Whooping Crane Recovery Coordinator, 303–482–7425 (phone) or *kevin_mcabee@fws.gov* (email).	U.S. Fish and Wildlife Service, 160 Zillicoa Street, Suite B, Asheville, NC 28801.
Narrow headed gartersnake.	*Thamnophis rufipunctatus.*	Threatened	Arizona	79 FR 38678; 7/8/2014.	Field Supervisor, 602–242–0210 (phone) or *incomingazcorr@fws.gov* (email).	U.S. Fish and Wildlife Service, Arizona Ecological Services Office, 9828 North 31st Avenue, #C3, Phoenix, AZ 85051–2517.
Southwestern willow flycatcher.	*Empidonax traillii extimus.*	Endangered	Arizona	60 FR 10694; 2/27/1995.		
Sonoyta mud turtle	*Kinosternon sonoriense longifemorale.*	Endangered	Arizona	82 FR 43897; 9/20/2017.		
Masked bobwhite	*Colinus virginianus ridgwayi.*	Endangered	Arizona	32 FR 4001; 3/11/1967.		
San Bernardino springsnail.	*Pyrgulopsis bernardina.*	Threatened	Arizona	77 FR 23060; 4/17/2012.		
Yaqui catfish	*Ictalurus pricei*	Threatened	Arizona	49 FR 34490; 8/31/1984.		
PLANTS						
Pima pineapple cactus	*Coryphantha scheeri var. robustispina.*	Endangered	Arizona	58 FR 49875; 9/23/1993.	Field Supervisor, 602–242–0210 (phone) or *incomingazcorr@fws.gov* (email).	U.S. Fish and Wildlife Service, Arizona Ecological Services Office, 9828 North 31st Avenue, #C3, Phoenix, AZ 85051–2517.
Siler pincushion cactus	*Pediocactus (=Echinocactus,= Utahia) sileri.*	Threatened	Arizona	44 FR 61786; 10/26/1979.		
Gierisch mallow	*Sphaeralcea gierischii*	Endangered	Arizona	78 FR 49149; 8/13/2013.		
Sentry milk-vetch	*Astragalus cremnophylax var. cremnophylax.*	Endangered	Arizona	55 FR 50184; 12/5/1990.		
Huachuca water-umbel	*Lilaeopsis schaffneriana var. recurva.*	Endangered	Arizona	62 FR 665; 1/6/1997.		

Request for Information

To ensure that a 5-year status review is complete and based on the best available scientific and commercial information, we request new information from all sources. See What Information Do We Consider in Our Review? for specific criteria. If you submit information, please support it with documentation such as maps, bibliographic references, methods used to gather and analyze the data, and/or copies of any pertinent publications, reports, or letters by knowledgeable sources.

How do I ask questions or provide information?

If you wish to provide information for any species listed above, please submit your comments and materials to the appropriate contact in the table above. You may also direct questions to those contacts (also see **FOR FURTHER INFORMATION CONTACT**).

Public Availability 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.

Completed and Active Reviews

A list of all completed and currently active 5-year status reviews can be found at *https://ecos.fws.gov/ecp/report/species-five-year-review*.

Authority

This document is published under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Jeffrey Fleming,

Acting Regional Director, Southwest Region, U.S. Fish and Wildlife Service.

[FR Doc. 2024–01493 Filed 1–24–24; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS–HQ–IA–2023–0255; FXIA16710900000–234–FF09A30000]

Wild Bird Conservation Act; Receipt of Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of permit applications; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), invite the public to comment on permit applications regarding foreign bird species covered under the Wild Bird

Conservation Act (WBCA). With some exceptions, the WBCA prohibits certain activities with listed species unless Federal authorization is issued that allows such activities. The WBCA also requires that we invite public comment before issuing permits for any activity it otherwise prohibits.

DATES: We must receive comments by February 26, 2024.

ADDRESSES: *Obtaining Documents:* The applications, application supporting materials, and any comments and other materials that we receive will be available for public inspection at *https://www.regulations.gov* in Docket No. FWS–HQ–IA–2023–0255.

Submitting Comments: When submitting comments, please specify the name of the applicant and the permit number at the beginning of your comment. You may submit comments by one of the following methods:

- *Internet: https://www.regulations.gov.* Search for and submit comments on Docket No. FWS–HQ–IA–2023–0255.
- *U.S. mail:* Public Comments Processing, Attn: Docket No. FWS–HQ–IA–2023–0255; U.S. Fish and Wildlife Service Headquarters, MS: PRB/3W; 5275 Leesburg Pike; Falls Church, VA 22041–3803.

For more information, see Public Comment Procedures under **SUPPLEMENTARY INFORMATION:**

FOR FURTHER INFORMATION CONTACT: Timothy MacDonald, by phone at 703–358–2185 or via email at *DMAFR@fws.gov.* Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures

A. How Do I comment on submitted applications?

We invite the public and local, State, Tribal, and Federal agencies to comment on these applications. Before issuing any of the requested permits, we will take into consideration any information that we receive during the public comment period.

You may submit your comments and materials by one of the methods in **ADDRESSES**. We will not consider comments sent by email, or to an address not in **ADDRESSES**. We will not consider or include in our administrative record comments we receive after the close of the comment period (see **DATES**).

When submitting comments, please specify the name of the applicant and the permit number at the beginning of your comment. Provide sufficient information to allow us to authenticate any scientific or commercial data you include. The comments and recommendations that will be most useful and likely to influence agency decisions are: (1) Those supported by quantitative information or studies; and (2) those that include citations to, and analyses of, the applicable laws and regulations.

B. May I review comments submitted by others?

You may view and comment on others' public comments at *https://www.regulations.gov* unless our allowing so would violate the Privacy Act (5 U.S.C. 552a) or Freedom of Information Act (5 U.S.C. 552).

C. Who will see my comments?

If you submit a comment at *https://www.regulations.gov,* your entire comment, including any personal identifying information, will be posted on the website. If you submit a hardcopy comment that includes personal identifying information, such as your address, phone number, or email address, 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. Moreover, all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

II. Background

To help us carry out our conservation responsibilities for affected species, and in consideration of section 112(4) of the Wild Bird Conservation Act of 1992 (WBCA; 16 U.S.C. 4901–4916), we invite public comments on permit applications before final action is taken. With some exceptions, the WBCA prohibits certain activities with listed species unless Federal authorization is issued that allows such activities. Service regulations regarding permits for any activity otherwise prohibited by the WBCA with respect to any wild birds are available in title 50 of the Code of Federal Regulations in part 15.

III. Permit Applications

We invite comments on the following applications.

Applicant: Vernon Padgett, Sandy Springs, GA; Permit No. PER2919227

The applicant, along with member Dick Schroeder, and the Zoological Association of America as the oversight committee, wishes to establish a new Cooperative Breeding Program under 50 CFR 15.26 covering the species below. This notification covers activities to be conducted by the applicant over a 2-year period:

Stella's lorikeet (*Charmosyna stellae*), yellow-bibbed lory (*Lorius chlorocercus*), chattering lory (*Lorius garrulus*), dusky lory (*Pseudeos fuscata*), cardinal lory (*Pseudeos cardinalis*), black lory (*Chalcopsitta atra*), yellow-streaked lory (*Chalcopsitta sintillata*), ornate lorikeet (*Saudareos ornata*), coconut lorikeet (*Trichoglossus haematodus*), blue-streaked lory (*Eos reticulata*), red lory (*Eos rubra*), black-winged lory (*Eos cyanogenia*), and violet necked lory (*Eos squamata*).

Applicant: Vernon Padgett, Sandy Springs, GA; Permit No. PER2858327

The applicant, along with member Dallas World Aquarium, and the Zoological Association of America as the oversight committee, wishes to establish a new Cooperative Breeding Program under 50 CFR 15.26 covering the species below. This notification covers activities to be conducted by the applicant over a 2-year period:

Toco toucan (*Ramphastos toco*), white-throated toucan (*Ramphastos tucanus*), channel billed toucan (*Ramphastos vitellinus*), red-breasted toucan (*Ramphastos dicolorus*), green aracari (*Pteroglossus viridis*), saffron toucanet (*Baillonius bailloni*), rufous hornbill (*Buceros hydrocorax*), Papuan hornbill (*Rhyticeros plicatus*), wreathed hornbill (*Rhyticeros undulatus*), and knobbed hornbill (*Aceros cassidix*).

Applicant: The Peregrine Fund, Boise, ID; Permit No. 77797D

The applicant wishes to establish a new Cooperative Breeding Program (CBP) under 50 CFR 15.26 covering the Taita falcon (*Falco fasciinucha*). The applicant previously held CBP–039, for the same species. This notification covers activities to be conducted by the applicant over a 2-year period.

IV. Next Steps

After the comment period closes, we will make decisions regarding permit issuance. If we issue permits to any of the applicants listed in this notice, we will publish a notice in the **Federal Register**. You may locate the notice announcing the permit issuance by searching *https://www.regulations.gov* for the permit number listed above in

this document. For example, to find information about the potential issuance of Permit No. 12345A, you would go to *https://www.regulations.gov* and search for ''12345A''.

V. Authority

We issue this notice under the authority of the implementing regulations and under the authority of the Wild Bird Conservation Act of 1992 (16 U.S.C. 4901–4916). This notice is provided pursuant to section 112(4) of the Wild Bird Conservation Act of 1992, 50 CFR 15.26(c).

Timothy MacDonald,

Government Information Specialist, Branch of Permits, Division of Management Authority.

[FR Doc. 2024–01373 Filed 1–24–24; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS–R7–ES–2023–0212; FXES111607MRG01–245–FF07CAMM00]

Marine Mammals; Incidental Take During Specified Activities; Proposed Incidental Harassment Authorization for Southwest Alaska Stock of Northern Sea Otters in Kodiak, Alaska

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of application; proposed incidental harassment authorization; draft environmental assessment; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service, in response to a request under the Marine Mammal Protection Act of 1972, as amended, from Trident Seafoods Corporation, propose to authorize nonlethal incidental take by harassment of small numbers of the Southwest Alaska stock of northern sea otters (*Enhydra lutris kenyoni*) for 1 year from the date of issuance of the incidental harassment authorization. The applicant requested this authorization for take by harassment that may result from activities associated with pile driving and marine construction activities in Near Island Channel in Kodiak, Alaska. We estimate that this project may result in the nonlethal incidental take by harassment of up to 460 northern sea otters from the Southwest Alaska stock. This proposed authorization, if finalized, will be for up to 3,160 takes of 460 northern sea otters by Level B harassment. No take by Level A harassment or lethal take are requested, or expected, and no such take will be authorized.

DATES: Comments on this proposed incidental harassment authorization and the accompanying draft environmental assessment must be received by February 26, 2024.

ADDRESSES:

Accessing documents: You may view this proposed incidental harassment authorization, the application package, supporting information, draft environmental assessment, and the list of references cited herein at *https://www.regulations.gov* under Docket No. FWS–R7–ES–2023–0212. Alternatively, you may request these documents from the person listed under **FOR FURTHER INFORMATION CONTACT**.

Submitting comments: You may submit comments on the proposed authorization by one of the following methods:

- *U.S. mail:* Public Comments Processing, Attn: Docket No. FWS–R7–ES–2023–212, U.S. Fish and Wildlife Service, MS: PRB (JAO/3W), 5275 Leesburg Pike, Falls Church, VA 22041–3803.
- *Internet: https://www.regulations.gov.* Follow the instructions for submitting comments to Docket No. FWS–R7–ES–2023–212.

We will post all comments at *https://www.regulations.gov.* You may request that we withhold personal identifying information from public review; however, we cannot guarantee that we will be able to do so. See Request for Public Comments for more information.

FOR FURTHER INFORMATION CONTACT: Charles Hamilton, by U.S. mail at the U.S. Fish and Wildlife Service, MS 341, 1011 East Tudor Road, Anchorage, AK 99503; by email at *R7mmmregulatory@fws.gov;* or by telephone at 1–800–362–5148. 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:

Background

Section 101(a)(5)(D) of the Marine Mammal Protection Act of 1972 (MMPA; 16 U.S.C. 1361 *et seq.*) authorizes the Secretary of the Interior (Secretary) to allow, upon request, the incidental, but not intentional, taking by harassment of small numbers of marine mammals in response to requests by U.S. citizens (as defined in title 50 of the Code of Federal Regulations (CFR) in part 18, at 50 CFR 18.27(c)) engaged in a specified activity (other than commercial fishing) in a specified geographic region during a period of not more than 1 year. The Secretary has delegated authority for implementation of the MMPA to the U.S. Fish and Wildlife Service (''Service'' or ''we''). According to the MMPA, the Service shall allow this incidental taking if we make findings that the total of such taking for the 1-year period:

(1) is of small numbers of marine mammals of a species or stock;

(2) will have a negligible impact on such species or stocks; and

(3) will not have an unmitigable adverse impact on the availability of these species or stocks for taking for subsistence use by Alaska Natives.

If the requisite findings are made, we issue an authorization that sets forth the following, where applicable:

(a) permissible methods of taking;

(b) means of effecting the least practicable adverse impact on the species or stock and its habitat and the availability of the species or stock for subsistence uses; and

(c) requirements for monitoring and reporting of such taking by harassment, including, in certain circumstances, requirements for the independent peer review of proposed monitoring plans or other research proposals.

The term ''take'' means to harass, hunt, capture, or kill, or to attempt to harass, hunt, capture, or kill any marine mammal. ''Harassment'' means any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (the MMPA defines this as ''Level A harassment''), or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (the MMPA defines this as ''Level B harassment'').

The terms ''negligible impact'' and ''unmitigable adverse impact'' are defined in 50 CFR 18.27 (*i.e.,* regulations governing small takes of marine mammals incidental to specified activities) as follows: ''Negligible impact'' is an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival. ''Unmitigable adverse impact'' means an impact resulting from the specified activity: (1) that is likely to reduce the availability of the species to a level insufficient for a harvest to meet

subsistence needs by (i) causing the marine mammals to abandon or avoid hunting areas, (ii) directly displacing subsistence users, or (iii) placing physical barriers between the marine mammals and the subsistence hunters; and (2) that cannot be sufficiently mitigated by other measures to increase the availability of marine mammals to allow subsistence needs to be met.

The term ''small numbers'' is also defined in 50 CFR 18.27. However, we do not rely on that definition here as it conflates ''small numbers'' with ''negligible impacts.'' We recognize ''small numbers'' and ''negligible impacts'' as two separate and distinct considerations when reviewing requests for incidental harassment authorizations (IHA) under the MMPA (see *Natural Res. Def. Council, Inc.* v. *Evans,* 232 F. Supp. 2d 1003, 1025 (N.D. Cal. 2003)). Instead, for our small numbers determination, we estimate the likely number of marine mammals to be taken and evaluate if that number is small relative to the size of the species or stock.

The term ''least practicable adverse impact'' is not defined in the MMPA or its enacting regulations. For this IHA, we ensure the least practicable adverse impact by requiring mitigation measures that are effective in reducing the impact of project activities, but they are not so restrictive as to make project activities unduly burdensome or impossible to undertake and complete.

If the requisite findings are made, we shall issue an IHA, which may set forth the following, where applicable: (i) permissible methods of taking; (ii) other means of effecting the least practicable impact on the species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of the species or stock for taking for subsistence uses by coastal-dwelling Alaska Natives (if applicable); and (iii) requirements for monitoring and reporting take by harassment.

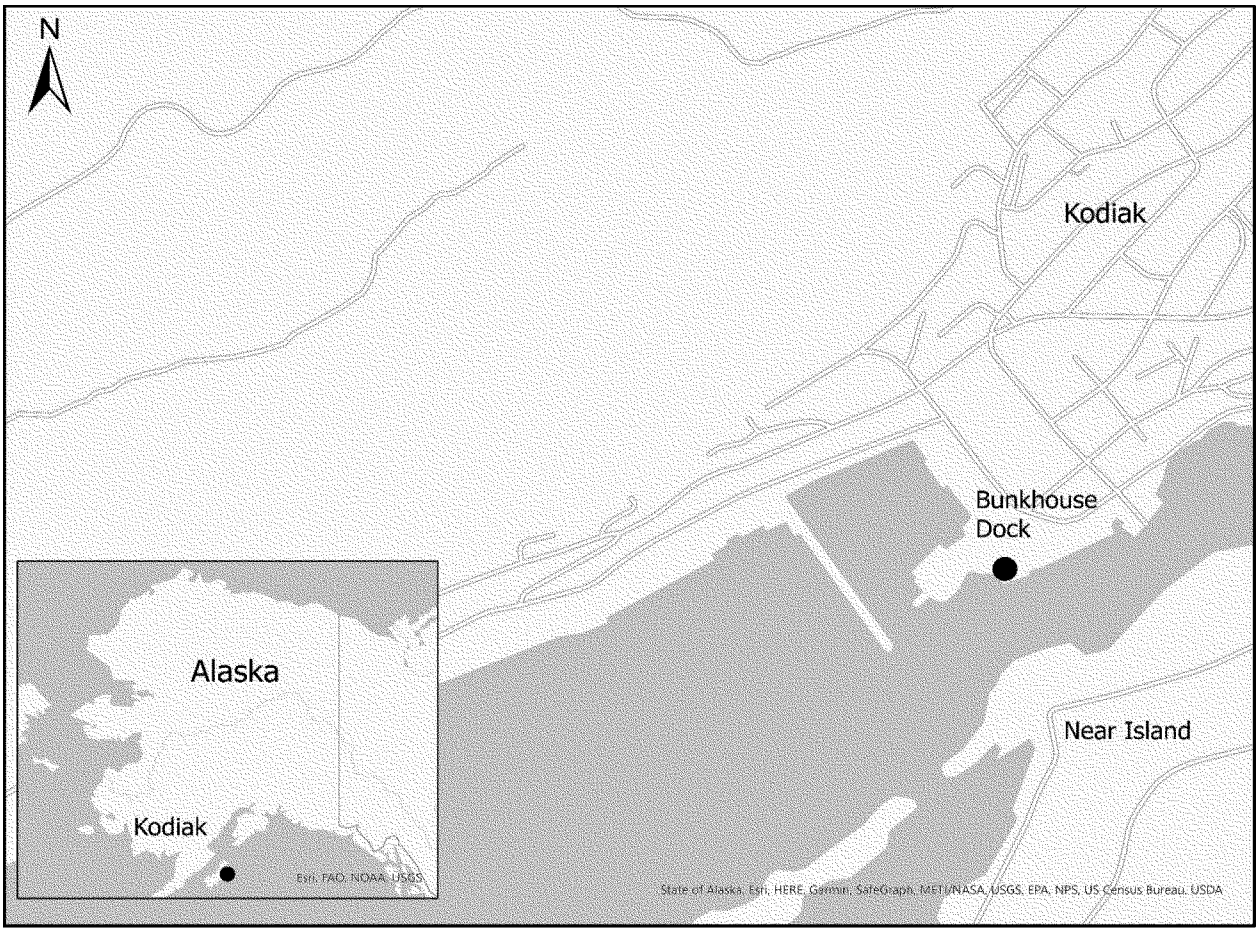
Summary of Request

On May 25, 2023, Trident Seafoods Corporation (hereafter ''Trident'' or ''the applicant'') submitted a request to the Service for authorization to take by Level B harassment a small number of northern sea otters (*Enhydra lutris kenyoni*) (hereafter ''sea otters'' or ''otters'' unless another species is specified) from the Southwest Alaska stock. The Service sent requests for additional information on May 30, June 13, July 26, August 30, September 25, and October 5, 2023. We received updated versions of the request on July 17, September 5, and October 9. The Service determined the October 9, 2023, application to be adequate and complete. Trident expects take by harassment may occur during the construction of their crew bunkhouse and associated facilities in Near Island Channel at Kodiak, Alaska.

Description of Specified Activities and Specified Geographic Region

The specified activity (hereafter ''project'') will include installation and removal of piles for the construction of a ~46-by-23-meter (m) (~150-by-75-foot (ft)) dock at Trident's crew bunkhouse in Kodiak, Alaska (see figure below), between March 2024 and March 2025. Trident will remove sixty 41-centimeter (cm) (16-inch (in)) diameter steel piles, seventy-five 36-cm (14-in) steel piles, and 100 36-cm (14-in) timber piles, and will permanently install the following types of piles: twenty-six 41-cm (16-in) and fifty-two 61-cm (24-in) diameter steel piles. Twenty 61-cm (24-in) diameter steel piles will be temporarily installed. Dock components that will be installed out of water include bull rail, fenders, mooring cleat, pre-cast concrete dock surface, and mast lights. Pile-driving activities will occur over 55 nonconsecutive days for approximately 94 hours during the course of 1 year from the date of issuance of the IHA. If the IHA is issued after Trident's intended start date in March 2024, the schedule for conducting the specified activities may be adjusted accordingly. Pile installation will be done with a combination of vibratory and down-the-hole (DTH) drilling. Temporary and extant piles will be removed by the deadpull method; it is anticipated that up to 10 percent of piles may require vibratory removal. Materials and equipment will be transported via barges, and workers will be transported to and from the barge work platform via skiff.

Additional project details may be reviewed in the application materials available as described under **ADDRESSES** or may also be requested as described under **FOR FURTHER INFORMATION CONTACT**.



Specified geographic region of project

Description of Marine Mammals in the Specified Geographic Region

Sea Otter Biology

There are three sea otter stocks in Alaska: the Southeast Alaska stock, the Southcentral Alaska stock, and the Southwest Alaska stock. Only the Southwest Alaska stock is represented in the project area. Detailed information about the biology of this stock can be found in the most recent Southwest Alaska revised stock assessment report (USFWS 2023), announced in the **Federal Register** at 88 FR 53510, August 8, 2023, and also available at *https://www.regulations.gov/document/FWS-R7-ES-2022-0155-0012* and *https://www.fws.gov/media/northern-sea-otter-southwest-alaska-stock-assessment-report-0.*

Sea otters may be distributed anywhere within the specified project area other than upland areas; however, they generally occur in shallow water near the shoreline. They are most commonly observed within the 40-m (131-ft) depth contour (USFWS 2023), although they can be found in areas with deeper water. Ocean depth is generally correlated with distance to shore, and sea otters typically remain within 1 to 2 kilometers (km) (0.62 to 1.24 miles (mi)) of shore (Riedman and Estes 1990). They tend to be found closer to shore during storms but venture farther out during good weather and calm seas (Lensink 1962; Kenyon 1969).

Sea otters are nonmigratory and generally do not disperse over long distances (Garshelis and Garshelis 1984), usually remaining within a few kilometers of their established feeding grounds (Kenyon 1981). Breeding males stay for all or part of the year in a breeding territory covering up to 1 km (0.62 mi) of coastline, while adult females maintain home ranges of approximately 8 to 16 km (5 to 10 mi), which may include one or more male territories. Juveniles move greater distances between resting and foraging areas (Lensink 1962; Kenyon 1969; Riedman and Estes 1990; Tinker and Estes 1996). Although sea otters generally remain local to an area, they are capable of long-distance travel. Sea otters in Alaska have shown daily movement distances greater than 3 km (1.9 mi) at speeds up to 5.5 km per hour (3.4 mi per hour) (Garshelis and Garshelis 1984).

Southwest Alaska Sea Otter Stock

The Southwest Alaska sea otter stock occurs from western Cook Inlet to Attu Island in the Aleutian chain (USFWS 2023). On August 9, 2005, the Southwest Alaska sea otter stock was listed as threatened under the Endangered Species Act (ESA) as a distinct population segment (DPS) (70 FR 46366). This stock is divided into five management units: Western Aleutians; Eastern Aleutians; South Alaska Peninsula; Bristol Bay; and Kodiak, Kamishak, and Alaska Peninsula (USFWS 2013, 2023). The specified geographic region occurs within the ranges of the Kodiak, Kamishak, and Alaska Peninsula management units.

The range of the Kodiak, Kamishak, and Alaska Peninsula management unit extends from Castle Cape to Western Cook Inlet on the southern side of the Alaska Peninsula and also encompasses Kodiak Island (USFWS 2020). The specified geographic region is within

the range of the sea otter population at Kodiak Archipelago. Waters surrounding Kodiak Island were surveyed in 2014 using the Bodkin-Udevitz aerial survey protocol (Cobb 2018). The estimate of sea otter density that resulted from these surveys is 2.54 animals per square kilometer (km^2). Data collected by ABR, Inc.—Environmental Research & Services during work at the Kodiak ferry terminal (ABR 2016) indicate periods with presence of higher numbers of sea otters, occasionally with rafts of above 200 animals and daily counts of sea otters totaling over 450 individuals. It is likely that sea otters use Near Island Channel, which is relatively protected in comparison with surrounding coastline, for shelter during storm events.

Potential Impacts of the Specified Activities on Marine Mammals

Effects of Noise on Sea Otters

We characterized ''noise'' as sound released into the environment from human activities that exceeds ambient levels or interferes with normal sound production or reception by sea otters. The terms ''acoustic disturbance'' or ''acoustic harassment'' are disturbances or harassment events resulting from noise exposure. Potential effects of noise exposure are likely to depend on the distance of the sea otter from the sound source, the level and intensity of sound the sea otter receives, background noise levels, noise frequency, noise duration, and whether the noise is pulsed or continuous. The actual noise level perceived by individual sea otters will also depend on whether the sea otter is above or below water and atmospheric and environmental conditions. Temporary disturbance of sea otters or localized displacement reactions are the most likely effects to occur from noise exposure.

Sea Otter Hearing

Pile driving and marine construction activities will fall within the hearing range of sea otters. Controlled sound exposure trials on southern sea otters (*Enhydra lutris nereis*) indicate that sea otters can hear frequencies between 125 hertz (Hz) and 38 kilohertz (kHz) with best sensitivity between 1.2 and 27 kHz (Ghoul and Reichmuth 2014). Aerial and underwater audiograms for a captive adult male southern sea otter in the presence of ambient noise suggest the sea otter's hearing was less sensitive to high-frequency (greater than 22 kHz) and low-frequency (less than 2 kHz) sound than terrestrial mustelids but was similar to that of a California sea lion (*Zalophus californianus*). However, the sea otter was still able to hear low-frequency sounds, and the detection thresholds for sounds between 0.125–1 kHz were between 116–101 decibels (dB), respectively. Dominant frequencies of southern sea otter vocalizations are between 3 and 8 kHz, with some energy extending above 60 kHz (McShane et al. 1995, Ghoul and Reichmuth 2012).

Exposure to high levels of sound may cause changes in behavior, masking of communications, temporary or permanent changes in hearing sensitivity, discomfort, and injury to marine mammals. Unlike other marine mammals, sea otters do not rely on sound to orient themselves, locate prey, or communicate under water; therefore, masking of communications by anthropogenic sound is less of a concern than for other marine mammals. However, sea otters, especially mothers and pups, do use sound for communication in air (McShane et al. 1995), and sea otters may monitor underwater sound to avoid predators (Davis et al. 1987).

Exposure Thresholds

Underwater Sounds

Noise exposure criteria for identifying underwater noise levels capable of causing Level A harassment to marine mammal species, including sea otters, have been established using the same methods as those used by the National Marine Fisheries Service (NMFS) (Southall et al. 2019). These criteria are based on estimated levels of sound exposure capable of causing a permanent shift in sensitivity of hearing (*i.e.,* a permanent threshold shift (PTS) (NMFS 2018)). PTS occurs when noise exposure causes hairs within the inner ear system to die (Ketten 2012). Although the effects of PTS are, by definition, permanent, PTS does not equate to total hearing loss.

Sound exposure thresholds incorporate two metrics of exposure: the peak level of instantaneous exposure likely to cause PTS and the cumulative sound exposure level (SEL_{CUM}) during a 24-hour period. They also include weighting adjustments for the sensitivity of different species to varying frequencies. PTS-based injury criteria were developed from theoretical extrapolation of observations of temporary threshold shifts (TTS) detected in lab settings during sound exposure trials (Finneran 2015). Southall and colleagues (2019) predict PTS for sea otters, which are included in the ''other marine carnivores'' category, will occur at 232 dB peak or 203 dB SEL_{CUM} for impulsive underwater sound and 219 dB SEL_{CUM} for non-impulsive (continuous) underwater sound.

Thresholds based on TTS have been used as a proxy for Level B harassment (*i.e.,* 70 FR 1871, January 11, 2005; 71 FR 3260, January 20, 2006; 73 FR 41318, July 18, 2008). Southall et al. (2007) derived TTS thresholds for pinnipeds (walruses, seals, and sea lions) based on 212 dB peak and 171 dB SEL_{CUM}. Exposures resulting in TTS in pinnipeds were found to range from 152 to 174 dB (183 to 206 dB SEL) (Kastak et al. 2005), with a persistent TTS, if not a PTS, after 60 seconds of 184 dB SEL (Kastak et al. 2008). Kastelein et al. (2012) found small but statistically significant TTS at approximately 170 dB SEL (136 dB, 60 minutes) and 178 dB SEL (148 dB, 15 minutes). Based on these findings, Southall et al. (2019) developed TTS thresholds for sea otters, which are included in the ''other marine carnivores'' category, of 188 dB SEL_{CUM} for impulsive sounds and 199 dB SEL_{CUM} for non-impulsive sounds.

The NMFS (2018) criteria do not identify thresholds for avoidance of Level B harassment. For pinnipeds (seals and sea lions), NMFS has adopted a 160-dB threshold for Level B harassment from exposure to impulsive noise and a 120-dB threshold for continuous noise (NMFS 1998, HESS 1999, NMFS 2018). These thresholds were developed from observations of mysticete (baleen) whales responding to airgun operations (*e.g.,* Malme et al. 1983; Malme and Miles 1983; Richardson et al. 1986, 1995) and from equating Level B harassment with noise levels capable of causing TTS in lab settings. Southall et al. (2007, 2019) assessed behavioral response studies and found considerable variability among pinnipeds. The authors determined that exposures between approximately 90 to 140 dB generally do not appear to induce strong behavioral responses from pinnipeds in water. However, they found behavioral effects, including avoidance, become more likely in the range between 120 to 160 dB, and most marine mammals showed some, albeit variable, responses to sound between 140 to 180 dB. Wood et al. (2012) adapted the approach identified in Southall et al. (2007) to develop a probabilistic scale for marine mammal taxa at which 10 percent, 50 percent, and 90 percent of individuals exposed are assumed to produce a behavioral response. For many marine mammals, including pinnipeds, these response rates were set at sound pressure levels of 140, 160, and 180 dB, respectively.

We have evaluated these thresholds and determined that the Level B threshold of 120 dB for non-impulsive noise is not applicable to sea otters. The 120-dB threshold is based on studies in which gray whales (*Eschrichtius robustus*) were exposed to experimental playbacks of industrial noise (Malme et al. 1983; Malme and Miles 1983). During these playback studies, southern sea otter responses to industrial noise were also monitored (Riedman 1983, 1984). Gray whales exhibited avoidance to industrial noise at the 120-dB threshold; however, there was no evidence of disturbance reactions or avoidance in southern sea otters. Thus, given the different range of frequencies to which sea otters and gray whales are sensitive, the NMFS 120-dB threshold based on gray whale behavior is not appropriate for predicting sea otter behavioral responses, particularly for low-frequency sound.

Based on the lack of sea otter disturbance response or any other reaction to the playback studies from the 1980s, as well as the absence of a clear pattern of disturbance or avoidance behaviors attributable to underwater sound levels up to about 160 dB resulting from low-frequency broadband noise, we assume 120 dB is not an appropriate behavioral response threshold for sea otters exposed to continuous underwater noise.

Based on the best available scientific information about sea otters, and closely related marine mammals when sea otter data are limited, the Service has set 160 dB of received underwater sound as a threshold for Level B harassment by disturbance for sea otters for this proposed IHA. Exposure to unmitigated in-water noise levels between 125 Hz and 38 kHz that are greater than 160 dB—for both impulsive and non-impulsive sound sources—will be considered by the Service as Level B harassment. Thresholds for Level A harassment (which entails the potential for injury) will be 232 dB peak or 203 dB SEL_{CUM} for impulsive sounds and 219 dB SEL_{CUM} for continuous sounds (table 1).

Airborne Sounds

The NMFS (2018) guidance neither addresses thresholds for preventing injury or disturbance from airborne noise, nor provides thresholds for avoidance of Level B harassment. Southall et al. (2007) suggested thresholds for PTS and TTS for sea lions exposed to nonpulsed airborne noise of 172.5 and 159 dB re (20 μPa)^2-s SEL. Conveyance of underwater noise into the air is of little concern since the effects of pressure release and interference at the water's surface reduce underwater noise transmission into the air. For activities that create both in-air and underwater sounds, we will estimate take based on parameters for underwater noise transmission. Considering sound energy travels more efficiently through water than through air, this estimation will also account for exposures to sea otters at the surface.

TABLE 1—TEMPORARY THRESHOLD SHIFT (TTS) AND PERMANENT THRESHOLD SHIFT (PTS) THRESHOLDS ESTABLISHED BY SOUTHALL ET AL. (2019) THROUGH MODELING AND EXTRAPOLATION FOR ''OTHER MARINE CARNIVORES,'' WHICH INCLUDES SEA OTTERS

	TTS			PTS		
	Non-impulsive	Impulsive		Non-impulsive	Impulsive	
	SEL_{CUM}	SEL_{CUM}	Peak SPL	SEL_{CUM}	SEL_{CUM}	Peak SPL
Air	157	146	170	177	161	176
Water	199	188	226	219	203	232

Note: Values are weighted for other marine carnivores' hearing thresholds and given in cumulative sound exposure level (SEL_{CUM} dB re (20 micropascal (μPa) in air and SEL_{CUM} dB re 1 μPa in water) for impulsive and non-impulsive sounds and unweighted peak sound pressure level (SPL) in air (dB re 20μPa) and water (dB 1μPa) (impulsive sounds only).

Evidence From Sea Otter Studies

Sea otters may be more resistant to the effects of sound disturbance and human activities than other marine mammals. For example, observers have noted no changes from southern sea otters in regard to their presence, density, or behavior in response to underwater sounds from industrial noise recordings at 110 dB and a frequency range of 50 Hz to 20 kHz and airguns, even at the closest distance of 0.5 nautical miles (<1 km or 0.6 mi) (Riedman 1983). Southern sea otters did not respond noticeably to noise from a single 1,638 cubic centimeters (cm^3) (100 cubic inches [in^3]) airgun, and no sea otter disturbance reactions were evident when a 67,006 cm^3 (4,089 in^3) airgun array was as close as 0.9 km (0.6 mi) to sea otters (Riedman 1983, 1984). However, southern sea otters displayed slight reactions to airborne engine noise (Riedman 1983).

Northern sea otters were observed to exhibit a limited response to a variety of airborne and underwater sounds, including a warble tone, sea otter pup calls, calls from killer whales (*Orcinus orca*) (which are predators to sea otters), air horns, and an underwater noise harassment system designed to drive marine mammals away from crude oil spills (Davis et al. 1988). These sounds elicited reactions from northern sea otters, including startle responses and movement away from noise sources. However, these reactions were observed only when northern sea otters were within 100 to 200 m (328 to 656 ft) of noise sources. Further, northern sea otters appeared to become habituated to the noises within 2 hours or, at most, 3–4 days (Davis et al. 1988).

Noise exposure may be influenced by the amount of time sea otters spend at the water's surface. Noise at the water's surface can be attenuated by turbulence from wind and waves more quickly compared to deeper water, reducing potential noise exposure (Greene and Richardson 1988, Richardson et al. 1995). Additionally, turbulence at the water's surface limits the transference of sound from water to air. A sea otter with its head above water will be exposed to only a small fraction of the sound energy traveling through the water beneath it. The average amount of time that sea otters spend above the water each day while resting and grooming varies between males and females and across seasons (Esslinger et al. 2014, Zellmer et al. 2021). For example, female sea otters foraged for an average of 8.78 hours per day compared to male sea otters, which foraged for an average of 7.85 hours per day during the summer months (Esslinger et al. 2014). Male and female sea otters spend an average of 63 to 67 percent of their day at the surface resting and grooming during the summer months (Esslinger et al. 2014). Few studies have evaluated

foraging times during the winter months. Garshelis et al. (1986) found that foraging times increased from 5.1 hours per day to 16.6 hours per day in the winter; however, Gelatt et al. (2002) did not find a significant difference in seasonal foraging times. It is likely that seasonal variation is determined by seasonal differences in energetic demand and the quality and availability of prey sources (Esslinger et al. 2014). These findings suggest that the large portion of the day sea otters spend at the surface may help limit sea otters' exposure during noise-generating operations.

Sea otter sensitivity to industrial activities may be influenced by the overall level of human activity within the sea otter population's range. In locations that lack frequent human activity, sea otters appear to have a lower threshold for disturbance. Sea otters in Alaska exhibited escape behaviors in response to the presence and approach of vessels (Udevitz et al. 1995). Behaviors included diving or actively swimming away from a vessel, entering the water from haulouts, and disbanding groups with sea otters swimming in multiple different directions (Udevitz et al. 1995). Sea otters in Alaska were also observed to avoid areas with heavy boat traffic in the summer and return to these areas during seasons with less vessel traffic (Garshelis and Garshelis 1984). In Cook Inlet, sea otters drifting on a tide trajectory that would have taken them within 500 m (0.3 mi) of an active offshore drilling rig were observed to swim in order to avoid a close approach of the drilling rig despite near-ambient noise levels (BlueCrest 2013).

Individual sea otters in Near Island Channel will likely show a range of responses to noise from pile-driving activities. Some sea otters will likely dive, show startle responses, change direction of travel, or prematurely surface. Sea otters reacting to pile-driving activities may divert time and attention from biologically important behaviors, such as feeding and nursing pups. Sea otter responses to disturbance can result in energetic costs, which increases the amount of prey required by sea otters (Barrett 2019). This increased prey consumption may impact sea otter prey availability and cause sea otters to spend more time foraging and less time resting (Barrett 2019). Some sea otters may abandon the project area and return when the disturbance has ceased. Based on the observed movement patterns of sea otters (*i.e.,* Lensink 1962; Kenyon 1969, 1981; Garshelis and Garshelis 1984; Riedman and Estes 1990; Tinker and Estes 1996), we expect some individuals will respond to pile-driving activities by dispersing to nearby areas of suitable habitat; however, other sea otters, especially territorial adult males, are less likely to be displaced.

Consequences of Disturbance

The reactions of wildlife to disturbance can range from short-term behavioral changes to long-term impacts that affect survival and reproduction. When disturbed by noise, animals may respond behaviorally (*e.g.,* escape response) or physiologically (*e.g.,* increased heart rate, hormonal response) (Harms et al. 1997, Tempel and Gutiérrez 2003). Theoretically, the energy expense and associated physiological effects from repeated disturbance could ultimately lead to reduced survival and reproduction (Gill and Sutherland 2000, Frid and Dill 2002). For example, South American sea lions (*Otaria byronia*) visited by tourists exhibited an increase in the state of alertness and a decrease in maternal attendance and resting time on land, thereby potentially reducing population size (Pavez et al. 2015). In another example, killer whales that lost feeding opportunities due to boat traffic faced a substantial (18 percent) estimated decrease in energy intake (Williams et al. 2006). In severe cases, such disturbance effects could have population-level consequences. For example, increased disturbance by tourism vessels has been associated with a decline in abundance of bottlenose dolphins (*Tursiops* spp.) (Bejder et al. 2006, Lusseau et al. 2006). However, these examples evaluated sources of disturbance that were longer term and more consistent than the temporary and intermittent nature of the specified project activities.

These examples illustrate direct effects on survival and reproductive success, but disturbances can also have indirect effects. Response to noise disturbance is considered a nonlethal stimulus that is similar to an antipredator response (Frid and Dill 2002). Sea otters are susceptible to predation, particularly from killer whales and eagles, and have a well-developed antipredator response to perceived threats. For example, the presence of a harbor seal (*Phoca vitulina*) did not appear to disturb southern sea otters, but they demonstrated a fear response in the presence of a California sea lion by actively looking above and beneath the water (Limbaugh 1961).

Although an increase in vigilance or a flight response is nonlethal, a tradeoff occurs between risk avoidance and energy conservation. An animal's reactions to noise disturbance may cause stress and direct an animal's energy away from fitness-enhancing activities such as feeding and mating (Frid and Dill 2002, Goudie and Jones 2004). For example, southern sea otters in areas with heavy recreational boat traffic demonstrated changes in behavioral time budgeting, showing decreased time resting and changes in haulout patterns and distribution (Benham 2006, Maldini et al. 2012). Chronic stress can also lead to weakened reflexes, lowered learning responses (Welch and Welch 1970, van Polanen Petel et al. 2006), compromised immune function, decreased body weight, and abnormal thyroid function (Selye 1979).

Changes in behavior resulting from anthropogenic disturbance can include increased agonistic interactions between individuals or temporary or permanent abandonment of an area (Barton et al. 1998). Additionally, the extent of previous exposure to humans (Holcomb et al. 2009), the type of disturbance (Andersen et al. 2012), and the age or sex of the individuals (Shaughnessy et al. 2008, Holcomb et al. 2009) may influence the type and extent of response in individual sea otters.

Vessel Activities

Vessel collisions with marine mammals can result in death or serious injury. Wounds resulting from vessel strike may include massive trauma, hemorrhaging, broken bones, or propeller lacerations (Knowlton and Kraus 2001). An animal may be harmed by a vessel when the vessel runs over the animal at the surface, the animal hits the bottom of a vessel while the animal is surfacing, or the animal is cut by a vessel's propeller.

Vessel strike has been documented as a cause of death across all three stocks of northern sea otters in Alaska. Since 2002, the Service has conducted 1,433 sea otter necropsies to determine cause of death, disease incidence, and the general health status of sea otters in Alaska. Vessel strike or blunt trauma was identified as a definitive or presumptive cause of death in 65 cases (4 percent) (USFWS 2020). In most of these cases, trauma was determined to be the ultimate cause of death; however, there was a contributing factor, such as disease or biotoxin exposure, which incapacitated the sea otter and made it more vulnerable to vessel strike (USFWS 2023).

Vessel speed influences the likelihood of vessel strikes involving sea otters. The probability of death or serious injury to a marine mammal increases as

vessel speed increases (Laist et al. 2001, Vanderlaan and Taggart 2007). Sea otters spend a considerable portion of their time at the water's surface (Esslinger et al. 2014). They are typically visually aware of approaching vessels and can move away if a vessel is not traveling too quickly. Mitigation measures to be applied to vessel operations to prevent collisions or interactions are included below in the proposed authorization portion of this document under *Avoidance and Minimization.*

Sea otters exhibit behavioral flexibility in response to vessels, and their responses may be influenced by the intensity and duration of the vessel's activity. As noted above, sea otter populations in Alaska were observed to avoid areas with heavy vessel traffic but return to those same areas during seasons with less vessel traffic (Garshelis and Garshelis 1984). Sea otters have also shown signs of disturbance or escape behaviors in response to the presence and approach of survey vessels, including sea otters diving and/or actively swimming away from a vessel, sea otters on haulouts entering the water, and groups of sea otters disbanding and swimming in multiple different directions (Udevitz et al. 1995).

Additionally, sea otter responses to vessels may be influenced by the sea otter's previous experience with vessels. Groups of southern sea otters in two locations in California showed markedly different responses to kayakers approaching to within specific distances, suggesting a different level of tolerance between the groups (Gunvalson 2011). Benham (2006) found evidence that the sea otters exposed to high levels of recreational activity may have become more tolerant than individuals in less-disturbed areas. Sea otters off the California coast showed only mild interest in vessels passing within hundreds of meters and appeared to have habituated to vessel traffic (Riedman 1983, Curland 1997). These findings indicate that sea otters may adjust their responses to vessel activities depending on the level of activity. Vessel activity during the project includes the transit of four barges for materials and construction, all of which will remain onsite, mostly stationary, to support the work; additionally, four skiffs will be used during the project for transporting workers short distances to the crane barges. Vessels will not be used extensively or over a long duration during the planned work; therefore, we do not anticipate that sea otters will experience changes in behavior indicative of tolerance or habituation.

Effects on Sea Otter Habitat and Prey

Physical and biological features of habitat essential to the conservation of sea otters include the benthic invertebrates that sea otters eat and the shallow rocky areas and kelp beds that provide cover from predators. Sea otter habitat in the project area includes coastal areas within the 40-m (131-ft) depth contour where high densities of sea otters have been detected.

Industrial activities, such as pile driving, may generate in-water noise at levels that can temporarily displace sea otters from important habitat and impact sea otter prey species. The primary prey species for sea otters are sea urchins (*Strongylocentrotus* spp. and *Mesocentrotus* spp.), abalone (*Haliotis* spp.), clams (*e.g., Clinocardium nuttallii, Leukoma staminea,* and *Saxidomus gigantea*), mussels (*Mytilus* spp.), crabs (*e.g., Metacarcinus magister, Pugettia* spp., *Telemessus cheiragonus,* and *Cancer* spp.), and squid (*Loligo* spp.) (Tinker and Estes 1996, LaRoche et al. 2021). When preferential prey are scarce, sea otters will also eat kelp, slow-moving benthic fishes, sea cucumbers (*e.g., Apostichopus californicus*), egg cases of rays, turban snails (*Tegula* spp.), octopuses (*e.g., Octopus* spp.), barnacles (*Balanus* spp.), sea stars (*e.g., Pycnopodia helianthoides*), scallops (*e.g., Patinopecten caurinus*), rock oysters (*Saccostrea* spp.), worms (*e.g., Eudistylia* spp.), and chitons (*e.g., Mopalia* spp.) (Riedman and Estes 1990, Davis and Bodkin 2021).

Several studies have addressed the effects of noise on invertebrates (Tidau and Briffa 2016, Carroll et al. 2017). Behavioral changes, such as an increase in lobster (*Homarus americanus*) feeding levels (Payne et al. 2007), an increase in avoidance behavior by wild-caught captive reef squid (*Sepioteuthis australis*) (Fewtrell and McCauley 2012), and deeper digging by razor clams (*Sinonovacula constricta*) (Peng et al. 2016) have been observed following experimental exposures to sound. Physical changes have also been observed in response to increased sound levels, including changes in serum biochemistry and hepatopancreatic cells in lobsters (Payne et al. 2007) and long-term damage to the statocysts required for hearing in several cephalopod species (André et al. 2011, Solé et al. 2013). De Soto et al. (2013) found impaired embryonic development in scallop (*Pecten novaezelandiae*) larvae when exposed to 160 dB. Christian et al. (2003) noted a reduction in the speed of egg development of bottom-dwelling crabs following exposure to noise; however, the sound level (221 dB at 2 m or 6.6 ft) was far higher than the planned project activities will produce. Industrial noise can also impact larval settlement by masking the natural acoustic settlement cues for crustaceans and fish (Pine et al. 2012, Simpson et al. 2016, Tidau and Briffa 2016).

While these studies provide evidence of deleterious effects to invertebrates as a result of increased sound levels, Carroll et al. (2017) caution that there is a wide disparity between results obtained in field and laboratory settings. In experimental settings, changes were observed only when animals were housed in enclosed tanks, and many were exposed to prolonged bouts of continuous, pure tones. We would not expect similar results in open marine conditions. It is unlikely that noises generated by project activities will have any lasting effect on sea otter prey given the short-term duration of sounds produced by each component of the planned work.

Noise-generating activities that interact with the seabed can produce vibrations, resulting in the disturbance of sediment and increased turbidity in the water. Although turbidity is likely to have little impact on sea otters and prey species (Todd et al. 2015), there may be some impacts from vibrations and increased sedimentation. For example, mussels (*Mytilus edulis*) exhibited changes in valve gape and oxygen demand, and hermit crabs (*Pagurus bernhardus*) exhibited limited behavioral changes in response to vibrations caused by pile driving (Roberts et al. 2016). Increased sedimentation is likely to reduce sea otter visibility, which may result in reduced foraging efficiency and a potential shift to less-preferred prey species. These outcomes may cause sea otters to spend more energy on foraging or processing the prey items; however, the impacts of a change in energy expenditure are not likely seen at the population level (Newsome et al. 2015). Additionally, the benthic invertebrates may be impacted by increased sedimentation, resulting in higher abundances of opportunistic species that recover quickly from industrial activities that increase sedimentation (Kotta et al. 2009). Although sea otter foraging could be impacted by industrial activities that cause vibrations and increased sedimentation, it is more likely that sea otters would be temporarily displaced from the project area due to impacts from noise rather than vibrations and sedimentation.

Potential Impacts of the Specified Activities on Subsistence Uses

The planned specified activities will occur near marine subsistence harvest areas used by Alaska Native Peoples from Kodiak and the surrounding areas. Subsistence harvest of sea otters around Kodiak Island takes place primarily in Ouzinkie, Kodiak, and Port Lions with totals of 422, 192, and 130 sea otters taken, respectively, from 2017 through 2021.

The planned project would occur within the Kodiak city limits, where firearm use is prohibited. The area potentially affected by the planned project does not significantly overlap with current subsistence harvest areas. Construction activities will not preclude access to hunting areas or interfere in any way with individuals wishing to hunt. Despite no conflict with subsistence use being anticipated, the Service will conduct outreach with potentially affected communities to see whether there are any questions, concerns, or potential conflicts regarding subsistence use in those areas. If any conflicts are identified in the future, Trident will develop a plan of cooperation specifying the steps necessary to minimize any effects the project may have on subsistence harvest.

Estimated Take

Definitions of Incidental Take Under the Marine Mammal Protection Act

Below we provide definitions of three potential types of take of sea otters. The Service does not anticipate and is not authorizing lethal take as a part of this proposed IHA; however, the definitions of these take types are provided for context and background:

Lethal Take—Human activity may result in biologically significant impacts to sea otters. In the most serious interactions, human actions can result in mortality of sea otters.

Level A Harassment—Human activity may result in the injury of sea otters. Level A harassment, for nonmilitary readiness activities, is defined as any act of pursuit, torment, or annoyance that has the potential to injure a marine mammal or marine mammal stock in the wild.

Level B Harassment—Level B Harassment, for nonmilitary readiness activities, means any act of pursuit, torment, or annoyance that has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, feeding, or sheltering. Changes in behavior that disrupt biologically significant behaviors or activities for the affected animal are indicative of take by Level B harassment under the MMPA.

The Service has identified the following sea otter behaviors as indicative of possible Level B harassment:

- Swimming away at a fast pace on belly (*i.e.,* porpoising);
- Repeatedly raising the head vertically above the water to get a better view (*i.e.,* spyhopping) while apparently agitated or while swimming away;
- In the case of a pup, repeatedly spyhopping while hiding behind and holding onto its mother's head;
- Abandoning prey or feeding area;
- Ceasing to nurse and/or rest (applies to dependent pups);
- Ceasing to rest (applies to independent animals);
- Ceasing to use movement corridors;
- Ceasing mating behaviors;
- Shifting/jostling/agitation in a raft so that the raft disperses;
- Sudden diving of an entire raft; or
- Flushing animals off a haulout.

This list is not meant to encompass all possible behaviors; other behavioral responses may equate to take by Level B harassment. Relatively minor changes in behavior such as increased vigilance or a short-term change in direction of travel are not likely to disrupt biologically important behavioral patterns, and the Service does not view such minor changes in behavior as indicative of a take by Level B harassment.

Calculating Take

We assumed all animals exposed to underwater sound levels that meet the acoustic exposure criteria defined above in *Exposure Thresholds* will experience take by Level A or Level B harassment due to exposure to underwater noise. Spatially explicit zones of ensonification were established around the planned construction location to estimate the number of otters that may be exposed to these sound levels.

We determined the number of otters expected to be present in Near Island Channel using sightings data collected during work conducted at the Kodiak Ferry terminal between November 2015 and June 2016 (ABR 2016). Sea otters were generally observed in singles or small groups with total daily counts of fewer than ~40 animals. However, there were several days on which rafts of 50 to 200 sea otters were observed with total daily counts of up to 459 animals. Sightings of large rafts and high daily totals coincided with days on which the observers noted higher sea states and it is likely that sea otters came from nearby exposed coastline to seek shelter Near Island Channel during storm events.

The project can be divided into three major components: DTH drilling, pile driving using a vibratory driver, and vessel use to support construction. Each of these components will generate a different type of in-water noise. Vibratory pile driving and the use of vessels will produce non-impulsive or continuous noise and DTH drilling is considered to produce both impulsive and continuous noise (NMFS 2020). A summary of the sizes and types of piles, installation and removal methods, and time to install and remove piles is shown in table 2.

The level of sound anticipated from each project component was established using recorded data from several sources listed in table 3. We used the NMFS Technical Guidance and User Spreadsheet (NMFS 2018, 2020) to determine the distance at which sound levels would attenuate to Level A harassment thresholds. Empirical data from the proxy projects were used to determine the distance at which sound levels would attenuate to Level B harassment thresholds (table 1). The weighting factor adjustment included in the NMFS user spreadsheet accounts for sounds created in portions of an organism's hearing range where they have less sensitivity. We used the weighting factor adjustment for otariid pinnipeds (eared seals) as they are the closest available physiological and anatomical proxy for sea otters. The spreadsheet also incorporates a transmission loss coefficient, which accounts for the reduction in sound level outward from a sound source. We used the NMFS-recommended transmission loss coefficient of 15 for coastal pile-driving activities to indicate practical spread (NMFS 2020).

We calculated the harassment zones for DTH drilling with input from NMFS. The sound pressure levels produced by DTH drilling were provided by NMFS in 2022 via correspondence with Solstice Alaska Consulting, who created the application for this IHA on behalf of Trident. We then used the NMFS Technical Guidance and User Spreadsheet (NMFS 2018, 2020) to determine the distance at which these sounds would attenuate to Level A harassment thresholds. To estimate the distances at which sounds would attenuate to Level B harassment thresholds, we used the NMFS-recommended transmission loss coefficient of 15 for coastal pile-driving activities in a practical spreading loss model (NMFS 2020) to determine the

distance at which sound levels attenuate to 160 dB re 1 µPa.

TABLE 2—SUMMARY OF TIMING OF SOUND PRODUCTION, AND DAYS OF IMPACT FROM PILE INSTALLATION AND REMOVAL AT TRIDENT'S SITE AT NEAR ISLAND CHANNEL

Activity and pile diameter	Removal of existing piles			Temporary piles, 24-in		Permanent installation	
	16-in	14-in	14-in	Installation	Removal	16-in	24-in
Pile material	Steel	Steel	Timber	Steel	Steel	Steel	Steel.
Pile type	Pipe	H-pile	Round	Pipe	Pipe	Pipe	Pipe.
Total number of piles	60	75	100	20	20	26	52.
Vibratory pile driving							
Number of piles	60	75	100	20	20	26	52.
Maximum number of piles per day	20	20	25	6	8	5	4.
Vibratory time per pile (minutes)	2	2	2	2	2	2	2.
Vibratory time per day (minutes)	40	40	50	12	16	10	8.
Number of days	3	4	4	3	3	5	13.
Total vibratory time (minutes)	120	150	200	40	40	52	104.
DTH drilling							
Number of piles	0	0	0	20	0	26	52.
Maximum number of piles per day	0	0	0	6	0	6	4.
DTH time per pile (minutes)	0	0	0	30	0	45	60.
DTH time per day (minutes)	0	0	0	180	0	270	240.
Number of days	0	0	0	3	0	4	13.
Total DTH time (minutes)	0	0	0	600	0	1,170	3,120.

TABLE 3—SUMMARY OF SOUND LEVEL, TIMING OF SOUND PRODUCTION, DISTANCE (m) FROM SOUND SOURCE TO BELOW LEVEL A HARASSMENT AND LEVEL B HARASSMENT THRESHOLDS FOR SOUND-PRODUCING ACTIVITIES AT TRIDENT'S KODIAK BUNKHOUSE SITE

Source	Sound level (dB (RMS) re 1µPa at 10 m)	Reference	Distance to below Level A harassment threshold	Distance to below Level B harassment threshold
14-in timber (vibratory removal)	162	Caltrans 2020	0.3	13.6
14-in H (vibratory removal)	150	Caltrans 2020	0.2	2.2
16-in steel (vibratory installation)	161	NAVFAC[a] 2015 (used 24-in piles)	0.1	11.7
16-in steel (vibratory removal)	161	NAVFAC 2015 (used 24-in piles)	0.2	11.7
24-in steel (vibratory installation—temporary piles)	161	NAVFAC 2015	0.1	11.7
24-in steel (vibratory installation—permanent piles)	161	NAVFAC 2015	0.1	11.7
24-in steel (vibratory removal)	161	NAVFAC 2015	0.1	11.7
Work skiff	160	Richardson et al. 1995; Kipple and Gabriele 2007	0.0	10.0
Tug operations	176	LGL/JASCO/Greeneridge 2014	9.2	116.6

DTH Drilling

Source	db rms (bubble curtain)	db SEL (bubble curtain)	Reference	Distance to below Level A harassment threshold	Distance to below Level B harassment threshold
16-in steel installation	162 (167)	141 (146)	Heyvaert & Reyff 2021 (used 24-in piles); Guan & Miner 2020.	1.8	13.6
24-in steel DTH installation—temporary	162 (167)	154 (159)	Heyvaert & Reyff 2021	10.3	13.6
24-in steel DTH installation—permanent	162 (167)	154 (159)	Heyvaert & Reyff 2021	12.5	13.6

[a] Naval Facilities Engineering Command.

Sound levels for all sources are unweighted and given in dB re 1 µPa. Non-impulsive sounds are in the form of mean maximum root mean square (RMS) sound pressure level (SPL) as it is more conservative than cumulative sound exposure level (SEL) or peak SPL for these activities.

We used the ABR Environmental Research & Services 2016 data to derive a local density of sea otters in Near Island Channel on the days of highest presence and arrived at 710 animals per km^2. Applying this density to the largest Level B harassment zone for pile driving (14 m [46 ft]) yielded a result of approximately 1 individual otter exposed. Applying this density to the Level B harassment zone for heavy towing operations (117m [383 ft]) yielded a result of approximately 31 individual otters exposed. Although the harassment zone for the work skiff is sufficiently small to be easily monitored (10 m [33 ft]), the skiff will make multiple trips between the harbor and the work site each day. On days when several hundred sea otters occupy the relatively small area of Near Channel, it would not be feasible for a protected species observer (PSO) to determine whether the individual animals present in the harassment zones remain constant over time. As such, we assumed that it was possible that each individual sea otter in Near Channel would enter a Level B harassment zone at least once over the course of each day of operations.

To estimate the number of sea otters anticipated in the waters surrounding Near Island Channel during the project,

we applied the distribution of daily sea otter counts observed during the Kodiak Ferry work (ABR 2016) to the length of Trident's work period (55 days). We used the result to estimate the daily sea otter counts anticipated during Trident's work period (table 4). The daily count range categories were selected based on natural breaks in the sightings data.

TABLE 4—DISTRIBUTION OF DAYS ANTICIPATED WITHIN TRIDENT'S 55-DAY WORK PERIOD FOR EACH CATEGORY OF DAILY SEA OTTER COUNTS AND ANTICIPATED TOTAL NUMBER OF EXPOSURES OF SEA OTTERS IN NEAR ISLAND CHANNEL OVER THE DURATION OF THE PROJECT. BASED ON SIGHTINGS DATA FROM OBSERVATIONS CONDUCTED AT KODIAK FERRY TERMINAL

[ABR 2016]

Range of daily sea otter count	Number of days in 55-day period	Exposures of sea otters throughout project
1 to 10	19	190
11 to 20	9	180
21 to 30	4	120
31 to 40	5	200
41 to 50	3	150
51 to 60	1	60
61 to 75	2	150
76 to 85	4	340
85 to 100	2	200
101 to 135	2	270
136 to 155	1	155
156 to 225	1	225
226 to 460	2	920
Totals	55	3,160

We assumed that the different types of activities could occur either sequentially or concurrently and that the total number of days of work would equal the full 55-day work window. While it is possible that more than one type of activity will take place on some days, which would reduce the number of days of exposure within a year, we cannot know this information in advance. As such, the estimated number of days and, therefore, exposures over the duration of the project are the maximum possible for the planned work.

In order to minimize exposure of sea otters to sounds above Level A harassment thresholds, Trident will implement shutdown zones (appendix C in Solstice 2023) ranging from 10 to 15 m (33 to 49 ft), based on the pile size and type of pile driving or marine construction activity, where operations will cease should a sea otter enter or approach the specified zone. Because the shutdown radii are larger than the sound isopleths for Level A harassment, no Level A harassment is anticipated. Soft-start and zone clearance prior to startup will also limit the exposure of sea otters to sound levels that could cause PTS.

Critical Assumptions

We estimate that 3,160 takes of 460 sea otters by Level B harassment may occur due to Trident's planned dock repair and construction activities. In order to conduct this analysis and estimate the potential amount of take by harassment, several critical assumptions were made.

Level B harassment is equated herein with behavioral responses that indicate harassment or disturbance. There is likely a portion of animals that respond in ways that indicate some level of disturbance but do not experience significant biological consequences.

We used the sea otter presence for the Near Island Channel area from surveys and analyses conducted by ABR, Inc. (2016). Methods and assumptions for these surveys can be found in the original publication. We assumed that the distribution of daily total counts of sea otters during Trident's work period would be similar to that observed during the Kodiak Ferry Terminal work.

We used sound source verification from recent pile-driving activities in a number of locations within and beyond Alaska to generate sound level estimates for construction activities. Environmental conditions in these locations, including water depth, substrate, and ambient sound levels are similar to those in the project location, but not identical. Further, estimation of ensonification zones were based on sound attenuation models using a practical spreading loss model. These factors may lead to actual sound values differing slightly from those estimated here.

We assumed that all piles will be installed and removed while submerged in water. Some piles will be located in the intertidal zone. Work performed at lower tidal heights would likely result in decreased transmission of sounds to the water column. However, as the timing of pile installation and removal was not known in advance, we accounted for the possibility that all work may occur at a tidal height that allows for full sound transmission.

Finally, the pile-driving activities described here will also create in-air noise. Because sea otters spend over half of their day with their heads above water (Esslinger et al. 2014), they will be exposed to an increase of in-air noise from construction equipment. However, we have calculated Level B harassment with the assumption that an individual may be harassed only one time per 24-hour period, and underwater sound levels will be more disturbing and extend farther than in-air noise. Thus, while sea otters may be disturbed by noise both in-air and underwater, we have relied on the more conservative underwater estimates.

Sum of Harassment From All Sources

The applicant plans to conduct pile driving and marine construction activities in Kodiak, Alaska, over the course of a year from the date of issuance of the IHA. Over the course of the project, we estimate 3,160 instances of take by Level B harassment of 460

northern sea otters from the Southcentral Alaska stock due to behavioral responses of TTS associated with noise exposure. Although multiple instances of Level B harassment of individual sea otters are expected, these events would not have significant consequences for the health, reproduction, or survival of affected animals and therefore would not rise to the level of an injury or Level A harassment.

The use of soft-start procedures, zone clearance prior to startup, and shutdown zones (appendix C in Solstice 2023) is anticipated to eliminate both the number of sea otters exposed to sounds above Level A harassment thresholds and the exposure time of any sea otters venturing into a Level A harassment zone. We therefore do not anticipate any losses of hearing sensitivity that might impact the health, reproduction, or survival of affected animals. We anticipate that PSOs will be able to reliably detect and prevent take by Level A harassment of sea otters beyond the largest sound isopleth for Level A harassment (15 m [45 ft]), therefore we do not anticipate that any sea otters will be exposed to sounds capable of causing PTS or Level A harassment.

Determinations and Findings

Sea otters exposed to sound from the specified activities are likely to respond with temporary behavioral modification or displacement. The specified activities could temporarily interrupt the feeding, resting, and movement of sea otters. Because activities will occur during a limited amount of time and in a localized region, the impacts associated with the project are likewise temporary and localized. The anticipated effects are short-term behavioral reactions and displacement of sea otters near active operations.

Sea otters that encounter the specified activity may exert more energy than otherwise due to temporary cessation of feeding, increased vigilance, and retreating from the project area. We expect that affected sea otters will tolerate this exertion without measurable effects on health or reproduction. The anticipated takes will be due to short-term Level B harassment in the form of TTS, startling reactions, or temporary displacement. The mitigation measures incorporated into Trident's request will eliminate occurrences of Level A harassment to the extent where take by Level A harassment is not anticipated.

With the adoption of the mitigation measures incorporated in Trident's request and required by this proposed IHA, anticipated take was reduced. Those mitigation measures are further described below.

Small Numbers

To assess whether the authorized incidental taking would be limited to ''small numbers'' of marine mammals, the Service uses a proportional approach that considers whether the estimated number of marine mammals to be subjected to incidental take is small relative to the population size of the species or stock. Here, predicted levels of take were determined based on the estimated density of sea otters in the project area and ensonification zones developed using empirical evidence from similar geographic areas.

We estimate Trident's specified activities in the specified geographic region will result in no more than 3,160 takes of 460 sea otters by Level B harassment during the 1-year period of this proposed IHA (see *Sum of Harassment from All Sources*). Take of 460 animals is 0.9 percent of the best available estimate of the current Southwest Alaska stock size of 51,935 animals (USFWS 2023) ((460 ÷ 51,935) × 100 ≈ 0.9) and represents a ''small number'' of sea otters of that stock.

Negligible Impact

We propose a finding that any incidental take by harassment resulting from the specified activities cannot be reasonably expected to, and is not reasonably likely to, adversely affect the sea otter through effects on annual rates of recruitment or survival and will, therefore, have no more than a negligible impact on the Southwest Alaska stock of northern sea otters. In making this finding, we considered the best available scientific information, including the biological and behavioral characteristics of the species, the most recent information on species distribution and abundance within the area of the specified activities, the current and expected future status of the stock (including existing and foreseeable human and natural stressors), the potential sources of disturbance caused by the project, and the potential responses of marine mammals to this disturbance. In addition, we reviewed applicant-provided materials, information in our files and datasets, published reference materials, and species experts.

Sea otters are likely to respond to planned activities with temporary behavioral modification or temporary displacement. These reactions are not anticipated to have consequences for the long-term health, reproduction, or survival of affected animals. Most animals will respond to disturbance by moving away from the source, which may cause temporary interruption of foraging, resting, or other natural behaviors. Affected animals are expected to resume normal behaviors soon after exposure with no lasting consequences. Each sea otter is estimated to be exposed to construction noise for between 4 and 55 days, resulting in repeated exposures. However, injuries (*i.e.,* Level A harassment or PTS) due to chronic sound exposure is estimated to occur at a longer time scale (Southall et al. 2019). The area that will experience noise greater than Level B thresholds due to pile driving is small (less than 0.01 km^2), and an animal that may be disturbed could escape the noise by moving to nearby quiet areas. Further, sea otters spend over half of their time above the surface during the summer months (Esslinger et al. 2014), and likely no more than 70 percent of their time foraging during winter months (Gelatt et al. 2002). Thus, their ears will not be exposed to continuous noise, and the amount of time it may take for permanent injury is considerably longer than that of mammals primarily under water. Some animals may exhibit some of the stronger responses typical of Level B harassment, such as fleeing, interruption of feeding, or flushing from a haulout. These responses could have temporary biological impacts for affected individuals but are not anticipated to result in measurable changes in survival or reproduction.

The total number of animals affected, and severity of impact is not sufficient to change the current population dynamics at the stock scale. Although the specified activities may result in approximately 3,160 incidental takes of 460 sea otters from the Southwest Alaska stock, we do not expect this level of harassment to affect annual rates of recruitment or survival or result in adverse effects on the stock.

Our proposed finding of negligible impact applies to incidental take associated with the specified activities as mitigated by the avoidance and minimization measures identified in Trident's mitigation and monitoring plan. These mitigation measures are designed to minimize interactions with and impacts to sea otters. These measures, along with the monitoring and reporting procedures, are required for the validity of our finding and are a necessary component of the proposed IHA. For these reasons, we propose a finding that the specified project will have a negligible impact on the Southwest Alaska stock of northern sea otters.

Least Practicable Adverse Impacts

We find that the mitigation measures required by this proposed IHA will affect the least practicable adverse impacts on the stock from any incidental take likely to occur in association with the specified activities. In making this finding, we considered the biological characteristics of sea otters, the nature of the specified activities, the potential effects of the activities on sea otters, the documented impacts of similar activities on sea otters, and alternative mitigation measures.

In evaluating what mitigation measures are appropriate to ensure the least practicable adverse impact on species or stocks and their habitat, as well as subsistence uses, we considered the manner and degree to which the successful implementation of the measures are expected to achieve this goal. We considered the nature of the potential adverse impact being mitigated (likelihood, scope, range), the likelihood that the measures will be effective if implemented, and the likelihood of effective implementation. We also considered the practicability of the measures for applicant implementation (*e.g.,* cost, impact on operations). We assessed whether any additional, practicable requirements could be implemented to further reduce effects, but did not identify any.

To reduce the potential for disturbance from acoustic stimuli associated with the activities, Trident will implement mitigation measures, including the following:

- Using the smallest diameter piles practicable while minimizing the overall number of piles;
- Using a project design that does not include dredging or blasting;
- Using pile caps made of high-density polyethylene or ultra-high-molecular-weight polyethylene softening materials during pile driving;
- Foregoing the use of an impact hammer;
- Employing a deep bubble curtain during all DTH drilling to reduce noise impacts;
- Development of a marine mammal monitoring and mitigation plan;
- Establishment of shutdown and monitoring zones;
- Visual mitigation monitoring by designated PSOs;
- Site clearance before startup;
- Soft-start procedures; and
- Shutdown procedures.

The Service has not identified any additional (*i.e.,* not already incorporated into Trident's request) mitigation or monitoring measures that are practicable and would further reduce potential impacts to sea otters and their habitat.

Impact on Subsistence Use

The project will not preclude access to harvest areas or interfere with the availability of sea otters for harvest. Additionally, the bunkhouse dock and associated facilities are located within the City of Kodiak, where firearm use is prohibited. We therefore propose a finding that Trident's anticipated harassment will not have an unmitigable adverse impact on the availability of any stock of northern sea otters for taking for subsistence uses. In making this finding, we considered the timing and location of the planned activities and the timing and location of subsistence harvest activities in the project area.

Monitoring and Reporting

The purposes of the monitoring requirements are to document and provide data for assessing the effects of specified activities on sea otters; to ensure that take is consistent with that anticipated in the small numbers, negligible impact, and subsistence use analyses; and to detect any unanticipated effects on the species. Monitoring plans include steps to document when and how sea otters are encountered and their numbers and behaviors during these encounters. This information allows the Service to measure encounter rates and trends and to estimate numbers of animals potentially affected. To the extent possible, monitors will record group size, age, sex, reaction, duration of interaction, and closest approach to the project activity.

As proposed, monitoring activities will be summarized and reported in formal reports. Trident must submit monthly reports for all months during which noise-generating work takes place as well as a final monitoring report that must be submitted no later than 90 days after the expiration of the IHA. We will require an approved plan for monitoring and reporting the effects of pile driving and marine construction activities on sea otters prior to issuance of an IHA. We will require approval of the monitoring results for continued operation under the IHA.

We find that these proposed monitoring and reporting requirements to evaluate the potential impacts of planned activities will ensure that the effects of the activities remain consistent with the rest of the findings.

Required Determinations

National Environmental Policy Act (NEPA)

We have prepared a draft environmental assessment in accordance with the NEPA (42 U.S.C. 4321 *et seq.*). We have preliminarily concluded that authorizing the nonlethal, incidental, unintentional take by Level B harassment of up to 3,160 takes of 460 sea otters from the Southwest Alaska stock in the specified geographic region during the specified activities during the authorization period would not significantly affect the quality of the human environment and, thus, preparation of an environmental impact statement for this proposed IHA is not required by section 102(2) of NEPA or its implementing regulations. We are accepting comments on the draft environmental assessment as specified above in **DATES** and **ADDRESSES**.

Endangered Species Act

Under the ESA (16 U.S.C. 1536(a)(2)), all Federal agencies are required to ensure the actions they authorize are not likely to jeopardize the continued existence of any threatened or endangered species or result in destruction or adverse modification of critical habitat. Because the Southwest Alaska stock is listed as threatened under the ESA, prior to finalizing the proposed IHA, if warranted, the Service will complete intra-Service consultation under section 7 of the ESA on our proposed issuance of this IHA. These evaluations and findings will be made available on the Service's website at *https://ecos.fws.gov/ecp/report/biological-opinion.* The authorization of incidental take of sea otters and the measures included in the proposed IHA would not affect other listed species or designated critical habitat.

Government-to-Government Consultation

It is our responsibility to communicate and work directly on a Government-to-Government basis with federally recognized Alaska Native Tribes in developing programs for healthy ecosystems. We seek their full and meaningful participation in evaluating and addressing conservation concerns for protected species. It is our goal to remain sensitive to Alaska Native culture, and to make information available to Alaska Native people. Our efforts are guided by the following policies and directives:

(1) The Native American Policy of the Service (January 20, 2016);

(2) The Alaska Native Relations Policy (currently in draft form);

(3) Executive Order 13175 (January 9, 2000);

(4) Department of the Interior Secretary's Orders 3206 (June 5, 1997), 3225 (January 19, 2001), 3317 (December 1, 2011), and 3342 (October 21, 2016);

(5) The Alaska Government-to-Government Policy (a departmental memorandum issued January 18, 2001); and

(6) The Department of the Interior's policies on consultation with Alaska Native Tribes and Organizations.

We have evaluated possible effects of the specified activities on federally recognized Alaska Native Tribes and Organizations. The Service has determined that, due to this project's locations and activities, the Tribal Organizations and communities near Kodiak, Alaska, as well as relevant Alaska Native Claims Settlement Act corporations, will not be impacted by this project. However, we will be reaching out to them to inform them of the availability of this proposed IHA and offer them the opportunity to consult.

We invite continued discussion, either about the project and its impacts or about our coordination and information exchange throughout the IHA process.

Proposed Authorization

We propose to authorize the nonlethal incidental take by Level B harassment of 3,160 takes of 460 sea otters from the Southwest Alaska stock. Authorized take may be caused by pile driving and marine construction activities conducted by Trident Seafoods Corporation (Trident) in Kodiak, Alaska, over the course of a year from the date of issuance of the IHA. We do not anticipate or authorize any take by Level A harassment or lethal take to sea otters resulting from these activities.

A. General Conditions for the Incidental Harassment Authorization (IHA)

(1) Activities must be conducted in the manner described in the October 9, 2023, revised request from Trident for an IHA and in accordance with all applicable conditions and mitigation measures. The taking of sea otters whenever the required conditions, mitigation, monitoring, and reporting measures are not fully implemented as required by the IHA is prohibited. Failure to follow the measures specified both in the revised request and within this proposed authorization may result in the modification, suspension, or revocation of the IHA.

(2) If project activities cause unauthorized take (*i.e.,* greater than 3,160 takes of 460 northern sea otters from the Southwest Alaska stock, a form of take other than Level B harassment, or take of one or more sea otters through methods not described in the IHA), Trident must take the following actions:

(i) Cease its activities immediately (or reduce activities to the minimum level necessary to maintain safety);

(ii) Report the details of the incident to the Service within 48 hours; and

(iii) Suspend further activities until the Service has reviewed the circumstances and determined whether additional mitigation measures are necessary to avoid further unauthorized taking.

(3) All operations managers, vehicle operators, and machine operators must receive a copy of this IHA and maintain access to it for reference at all times during project work. These personnel must understand, be fully aware of, and be capable of implementing the conditions of the IHA at all times during project work.

(4) This IHA will apply to activities associated with the specified project as described in this document and in Trident's revised request. Changes to the specified project without prior authorization may invalidate the IHA.

(5) Trident's revised request is approved and fully incorporated into this IHA unless exceptions are specifically noted herein. The request includes:

(i) Trident's original request for an IHA, dated May 25, 2023;

(ii) Revised applications, dated September 5 and October 9, 2023;

(iii) Marine Mammal Mitigation and Monitoring Plan;

(iv) Bubble curtain schematics; and

(v) Pile coordinates.

(6) Operators will allow Service personnel or the Service's designated representative to visit project worksites to monitor for impacts to sea otters and subsistence uses of sea otters at any time throughout project activities so long as it is safe to do so. ''Operators'' are all personnel operating under Trident's authority, including all contractors and subcontractors.

B. Avoidance and Minimization

(1) Construction activities must be conducted using equipment that generates the lowest practicable levels of underwater sound within the range of frequencies audible to sea otters.

(2) If the number of sea otters present in the area of Near Island Channel exceeds 450, or if the number of sea otters present in a Level B monitoring zone exceeds 25, or if the combination of sea state and a high number of sea otters in the area is so high as to preclude an accurate count, work will cease until PSOs can confirm that the number of sea otters in the area is less than above limits.

(3) During all pile-installation activities, regardless of predicted sound levels, a physical interaction shutdown zone of 10 m (33 ft) must be enforced. If a sea otter enters the shutdown zone, in-water activities must be delayed until either the animal has been visually observed outside the shutdown zone, or 15 minutes have elapsed since the last observation time without redetection of the animal. A shutdown zone of 15 m (49 ft) will be enforced for DTH drilling where the 160 dB sound isopleth exceeds the 10 m (33 ft) physical interaction shutdown zone.

(4) In-water activity must be conducted in daylight. If environmental conditions prevent visual detection of sea otters within the shutdown zone, in-water activities must be stopped until visibility is regained.

(5) All in-water work along the shoreline must be conducted during low tide when the site is dewatered to the maximum extent practicable.

C. Mitigation Measures for Vessel Operations

Vessel operators must take every precaution to avoid harassment of sea otters when a vessel is operating near these animals. The applicant must carry out the following measures:

(1) Vessels must remain at least 500 m (0.3 mi) from rafts of sea otters unless safety is a factor. Vessels must reduce speed and maintain a distance of 100 m (328 ft) from all sea otters unless safety is a factor.

(2) Vessels must not be operated in such a way as to separate members of a group of sea otters from other members of the group and must avoid alongshore travel in shallow water (<20 m (66 ft)) whenever practicable.

(3) When weather conditions require, such as when visibility drops, vessels must adjust speed accordingly to avoid the likelihood of injury to sea otters.

(4) Vessel operators must be provided written guidance for avoiding collisions and minimizing disturbances to sea otters. Guidance will include measures identified in paragraphs (C)(12) through (15) of this section.

D. Monitoring

(1) Operators shall work with PSOs to apply mitigation measures and shall recognize the authority of PSOs up to and including stopping work, except where doing so poses a significant safety risk to personnel.

(2) Duties of the PSOs include watching for and identifying sea otters,

recording observation details, documenting presence in any applicable monitoring zone, identifying and documenting potential harassment, and working with operators to implement all appropriate mitigation measures.

(3) A sufficient number of PSOs will be available to meet the following criteria: 100 percent monitoring of exclusion zones during all daytime periods of underwater noise-generating work; a maximum of 4 consecutive hours on watch per PSO; a maximum of approximately 12 hours on watch per day per PSO.

(4) All PSOs will complete a training course designed to familiarize individuals with monitoring and data collection procedures. A field crew leader with prior experience as a sea otter observer will supervise the PSO team. Initially, new or inexperienced PSOs will be paired with experienced PSOs so that the quality of marine mammal observations and data recording is kept consistent. Resumes for candidate PSOs will be made available for the Service to review.

(5) Observers will be provided with reticule binoculars (7×50 or better), big-eye binoculars or spotting scopes (30×), inclinometers, and range finders. Field guides, instructional handbooks, maps, and a contact list will also be made available.

(6) Observers will collect data using the following procedures:

(i) All data will be recorded onto a field form or database.

(ii) Global positioning system data, sea state, wind force, and weather will be collected at the beginning and end of a monitoring period, every hour in between, at the change of an observer, and upon sightings of sea otters.

(iii) Observation records of sea otters will include date; time; the observer's locations, heading, and speed (if moving); weather; visibility; number of animals; group size and composition (adults/juveniles); and the location of the animals (or distance and direction from the observer).

(iv) Observation records will also include initial behaviors of the sea otters, descriptions of project activities and underwater sound levels being generated, the position of sea otters relative to applicable monitoring and mitigation zones, any mitigation measures applied, and any apparent reactions to the project activities before and after mitigation.

(v) For all sea otters in or near a mitigation zone, observers will record the distance from the sound source to the sea otter upon initial observation, the duration of the encounter, and the distance at last observation in order to monitor cumulative sound exposures.

(vi) Observers will note any instances of animals lingering close to or traveling with vessels for prolonged periods of time.

(7) Monitoring of the shutdown zone must continue for 30 minutes following completion of pile installation.

E. Measures To Reduce Impacts to Subsistence Users

Prior to conducting the work, Trident will take the following steps to reduce potential effects on subsistence harvest of sea otters:

(1) Avoid work in areas of known sea otter subsistence harvest;

(2) Discuss the planned activities with subsistence stakeholders including Southwest Alaska villages and traditional councils;

(3) Identify and work to resolve concerns of stakeholders regarding the project's effects on subsistence hunting of sea otters; and

(4) If any concerns remain, develop a POC in consultation with the Service and subsistence stakeholders to address these concerns.

F. Reporting Requirements

(1) Trident must notify the Service at least 48 hours prior to commencement of activities.

(2) Monthly reports will be submitted to the Service's Marine Mammal Management office (MMM) for all months during which noise-generating work takes place. The monthly report will contain and summarize the following information: dates, times, weather, and sea conditions (including the Beaufort Scale sea state and wind force conditions) when sea otters were sighted; the number, location, distance from the sound source, and behavior of the sea otters; the associated project activities; and a description of the implementation and effectiveness of mitigation measures with a discussion of any specific behaviors the sea otters exhibited in response to mitigation.

(3) A final report will be submitted to the Service's MMM within 90 days after completion of work or expiration of the IHA. The report will include:

(i) A summary of monitoring efforts (hours of monitoring, activities monitored, number of PSOs, and, if requested by the Service, the daily monitoring logs).

(ii) A description of all project activities, along with any additional work yet to be done. Factors influencing visibility and detectability of marine mammals (*e.g.,* sea state, number of observers, and fog and glare) will be discussed.

(iii) A description of the factors affecting the presence and distribution of sea otters (*e.g.,* weather, sea state, and project activities). An estimate will be included of the number of sea otters exposed to noise at received levels greater than or equal to 160 dB (based on visual observation).

(iv) A description of changes in sea otter behavior resulting from project activities and any specific behaviors of interest.

(v) A discussion of the mitigation measures implemented during project activities and their observed effectiveness for minimizing impacts to sea otters. Sea otter observation records will be provided to the Service in the form of electronic database or spreadsheet files.

(4) Injured, dead, or distressed sea otters that are not associated with project activities (*e.g.,* animals known to be from outside the project area, previously wounded animals, or carcasses with moderate to advanced decomposition or scavenger damage) must be reported to the Service within 24 hours of the discovery to either the Service's MMM (1–800–362–5148, business hours); or the Alaska SeaLife Center in Seward (1–888–774–7325, 24 hours a day); or both. Photographs, video, location information, or any other available documentation must be provided to the Service.

(5) All reports shall be submitted by email to *fw7_mmm_reports@fws.gov.*

Trident must notify the Service upon project completion or end of the work season.

Request for Public Comments

If you wish to comment on this proposed authorization, the associated draft environmental assessment, or both documents, you may submit your comments by either of the methods described in **ADDRESSES**. Please identify if you are commenting on the proposed authorization, draft environmental assessment, or both, make your comments as specific as possible, confine them to issues pertinent to the proposed authorization, and explain the reason for any changes you recommend. Where possible, your comments should reference the specific section or paragraph that you are addressing. The Service will consider all comments that are received before the close of the comment period (see **DATES**). The Service does not anticipate extending the public comment period beyond the 30 days required under section 101(a)(5)(D)(iii) of the MMPA.

Comments, including names and street addresses of respondents, will become part of the administrative record

for this proposal. Before including your address, telephone 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 comments to withhold from public review your personal identifying information, we cannot guarantee that we will be able to do so.

Peter Fasbender,

Assistant Regional Director for Fisheries and Ecological Services, Alaska Region.

[FR Doc. 2024–01416 Filed 1–24–24; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[245A2100DD/AAKC001030/A0A501010.999900]

Land Acquisitions; Pascua Yaqui Tribe, Eleven Parcels, Pima County, Arizona

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: The Assistant Secretary—Indian Affairs made a final agency determination to acquire in trust 25.56 acres, more or less, of land consisting of eleven off-reservation parcels in Pima County, Arizona, (Site) for the Pascua Yaqui Tribe of Arizona, (Tribe) for gaming and other purposes.

DATES: This final determination was made on December 29, 2023.

FOR FURTHER INFORMATION CONTACT: Ms. Paula L. Hart, Director, Office of Indian Gaming, Mailstop 3543, 1849 C Street NW, Washington, DC 20240, *paula.hart@bia.gov,* (202) 219–4066.

SUPPLEMENTARY INFORMATION: On the date listed in the **DATES** section of this notice, the Assistant Secretary—Indian Affairs made a final agency determination to acquire the Site, consisting of 25.56 acres, more or less, in trust for the Tribe under the authority of the Old Pascua Community Land Acquisition Act of 2022, Public Law 117–275, 136 Stat. 4184 (2022), and Department regulations.

The Assistant Secretary—Indian Affairs, on behalf of the Secretary of the Interior, will immediately acquire title to the Site in the name of the United States of America in trust for the Tribe upon fulfillment of all Departmental requirements. The legal description for the Site is as follows:

Legal Description of Property

Description: 901 W Grant, 2395 N Fairview, and 1055 W Grant, 901 W Grant and 2395 N Fairview aka 11516001B and 11516001C

Parcel No. 1: APN: 115–16–001B

A parcel of land located in the Northwest quarter of Section 2, Township 14 South, Range 13 East, Gila and Salt River Base and Meridian, Pima County, Arizona, more particularly described as follows:

COMMENCING at the North quarter corner of said Section 2, being a brass cap survey monument at the intersection of the centerline of Grant Road and the Westerly right-of-way of Fairview Avenue, each public roadways within the City of Tucson, Arizona;

THENCE along the centerline of Grant Road, North 89°05′59″ West, 90.07 feet to a point;

THENCE South 00°54′01″ West, 60.00 feet to the Northeast corner of Lot 13 of Grant Interstate Commons, a subdivision of record in Book 46 of Maps and Plats. Page 27, records of Pima County, Arizona, being the POINT OF BEGINNING of the herein described parcel;

THENCE along the Easterly boundary of Lot 13, as amended by Scrivener's Error recorded in Docket 10302. Page 146, South 00°13′42″ East, 138.47 feet to a point;

THENCE North 89°42′33″ East, 92.00 feet to a point on the Westerly right-of-way of Fairview Avenue; THENCE along said right-of-way, North 00°27′04″ West, 83.83 feet to the beginning of a curve tangent to the line;

THENCE Northerly, Northwesterly and Westerly 83.55 feet along the curve concave to the Southwest, having a radius of 54.00 feet and a central angle of 88°38′55″ to a point on the Southerly right-of-way of Grant Road;

THENCE along the Grant Road right-of-way, North 89°05′59″ West tangent to the curve 38.74 feet to the POINT OF BEGINNING of the herein described parcel.

Parcel No. 2: APN: 11516001C

A parcel of land located in the Northwest quarter of Section 2, Township 14 South, Range 13 East, Gila and Salt River Base and Meridian, Pima County, Arizona, more particularly described as follows:

COMMENCING at the North quarter corner of said Section 2, being a brass cap survey monument at the intersection of the centerline of Grant Road and the Westerly right-of-way of Fairview Avenue, each public roadway within the City of Tucson, Arizona;

THENCE along the centerline of Grant Road, North 89°05′59″ West, 90.07 feet to a point;

THENCE South 00°54′01″ West, 60.00 feet to the Northeast corner of Lot 13 of Grant Interstate Commons, a subdivision of record in Book 46 of Maps and Plats. Page 27, records of Pima County, Arizona;

THENCE along the Easterly boundary of Lot 13, as amended by Scrivener's Error recorded in Docket 10302. Page 146, South 00°13′42″ East, 138.47 feet to the POINT OF BEGINNING of the herein described parcel;

THENCE continuing South 00°13′42″ East, along the Easterly boundaries of Lots 13 and 12 of said subdivision, a distance of 259.48 feet to the Southeastern corner of Lot 12;

THENCE South 89°05′20″ East, 93.03 feet to a point on the Westerly right-of-way of Fairview Avenue;

THENCE along said right-of-way, North 00°27′04″ West, 261.44 feet to a point;

THENCE South 89°42′33″ West, 92.00 feet to the POINT OF BEGINNING of the herein described.

Description: 1055 W Grant aka APN 115160130

Parcel No. 1

A portion of the Northwest Quarter of Section 2, Township 14 South, Range 13 East, Gila and Salt River Meridian, Pima County, Arizona, described as follows:

Beginning at a point in the East line of said Northwest Quarter of Section 2, which point is South 0 degrees 27 minutes 07 seconds East, along said East line, a distance of 678.02 feet from the North quarter corner of said Section 2, which point of beginning is identical with the point of beginning of Parcel No. 1 as described in Deed of Trust recorded in the Office of the County Recorder of Pima County, Arizona, in Docket 1655 at page 201;

Thence North 89 degrees 57 minutes 43 seconds West, along a portion of the North line of said Parcel No. 1 described in Docket 1655 at page 201, and its Westerly extension, a distance of 586.40 feet to a point in the Southerly extension of the West line of Parcel No. 2 as described in said Docket 1655 at page 201;

Thence South 0 degrees 29 minutes 32 seconds East, along said Southerly extension, a distance of 93.20 feet to a point in the center line (10 feet from east side) of that certain easement conveyed to the City of Tucson by instrument recorded in said office of the County Recorder in Docket 2005 at page 138;

Thence South 52 degrees 58 minutes 37 seconds West, along said center line,

a distance of 334.13 feet to a point in the Northeasterly line of the Southern Pacific Railroad right-of-way;

Thence South 35 degrees 16 minutes 00 seconds East, along said right-of-way line, a distance of 810.00 feet to a point;

Thence North 54 degrees 44 minutes 00 seconds East, a distance of 477.72 feet to a point in said East line of the Northwest Quarter of Section 2, which point is 41.56 feet Southerly from the Northeast corner of the Southeast Quarter of said Northwest Quarter of Section 2;

Thence North 0 degrees 27 minutes 07 seconds West, along said East line of the Northwest Quarter of Section 2, a distance of 679.55 feet to the POINT OF BEGINNING.

EXCEPT that part thereof in the Southeast Quarter of the Northwest Quarter of said Section 2, lying Easterly of the Easterly line of said Parcel No. 1 described in Docket 1655 at page 201.

Parcel No. 2

An easement for ingress and egress over a parcel of land, being 60 feet in width, situate in the Northwest Quarter of Section 2, Township 14 South, Range 13 East, Gila and Salt River Meridian, Pima County, Arizona, the West line of said parcel being described as follows:

Beginning at a point in the East line of said Northwest Quarter of Section 2, which point is South 0 degrees 02 minutes 07 seconds East, along said East line, a distance of 678.02 feet from the North quarter corner of said Section 2, which point of beginning is identical with the point of beginning of Parcel 1 as described in Deed of Trust recorded in Docket 1655 at page 201;

Thence North 89 degrees 57 minutes 43 seconds West along a portion of the North line of said Parcel 1, and its Westerly extension, a distance of 586.40 feet to a point in the Southerly extension of the West line of Parcel No 2 as described in said Deed of Trust;

Thence South 89 degrees 57 minutes 43 seconds East, a distance of 12 feet to the TRUE POINT OF BEGINNING of said West line;

Thence North 0 degrees 29 minutes 32 seconds West, to a point in the South line of West Grant Road as said road was established by Final Order of Condemnation recorded in the office of the County Recorder of Pima County, Arizona, in Docket 1984 at page 137.

Parcel No. 3

An easement for a sign together with access, ingress and egress for erection and maintenance thereof, described as follows:

Beginning at a point in the East line of said Northwest Quarter of Section 2, Township 14 South, Range 13 East, Gila and Salt River Meridian, Pima County, Arizona, which point is South 0 degrees 27 minutes 07 seconds East, along said East line, a distance of 678.02 feet from the North Quarter corner of said Section 2, which point is identical with the point of beginning of Parcel 1 as described in Deed of Trust recorded in Docket 1655 at page 201;

Thence North 89 degrees 57 minutes 43 seconds West along a portion of the North line of said Parcel 1, and its Westerly extension, a distance of 586.40 feet to a point in the Southerly extension of the West line of Parcel No 2 as described in said Deed of Trust;

Thence North 0 degrees 29 minutes 32 seconds West, to a point in the South line of West Grant Road as said road was established by Final Order of Condemnation recorded in the office of the County Recorder of Pima County, Arizona, in Docket 1984 at page 137;

Said last mentioned point in the South line of West Grant Road being the TRUE POINT OF BEGINNING of the Parcel herein described;

Thence South 0 degrees 29 minutes 32 seconds East, a distance of 60 feet to a point;

Thence North 89 degrees 30 minutes 28 seconds East, a distance of 12 feet to a point;

Thence North 0 degrees 29 minutes 32 seconds West to a point on the South line of said West Grant Road;

Thence Westerly to the TRUE POINT OF BEGINNING.

Description: 911 W Grant aka APN 11516039A

Parcel No. 1

Lot 11 of GRANT INTERSTATE COMMONS, according to the plat of record in the office of the County Recorder of Pima County, Arizona, recorded in Book 46 of Maps, page 27.

Parcel No. 2

That portion of Fairview Avenue, as shown on the map or plat of Parque De Pascua, Lots 1 thru 5 and Tracts A, B, C and D, being a subdivision of Pima County, Arizona, in Book 33 of Maps and Plats at page 96 thereof, being described as follows:

Beginning at the Southeast corner of Lot 11 of Grant Interstate Commons, according to the plat of record in the office of the County Recorder of Pima County, Arizona, recorded in Book 46 of Maps, page 27 being a subdivision of Pima County, Arizona, according to the final plat thereof of record in said County Recorder's Office thereof, said corner being located in the West right of way line of said Fairview Avenue;

Thence North 0 degrees 27 minutes 04 seconds West, along the East line of Lot 11, being coincident with said West right of way line, a distance of 97.00 feet to a point; Thence North 89 degrees 32 minutes 56 seconds East, at right angles to said right of way line a distance of 1.00 feet to a point in a line which is parallel with and distance 1.00 feet Easterly of said West right of way line;

Thence South 0 degrees 27 minutes 04 seconds East, along said parallel line, a distance of 97.01 feet to its intersection with the Easterly prolongation of the South line of Lot 11;

Thence North 89 degrees 59 minutes 30 seconds West along said prolongation, a distance of 1.00 feet to the Southeast corner of Lot 11, being the Point of Beginning.

Description: 919 W Grant aka APN 11516040D

Parcel No. 1

The East Half of Lot 12 and the East 23.59 feet of the West half of said Lot 12, EXCEPT any portion lying within the Northerly 24.00 feet of said Lot 12, all in GRANT INTERSTATE COMMONS, a subdivision recorded in Book 46 of Maps and Plats at Page 27, records of Pima County, Arizona, described as follows:

Commencing at the Northeast corner of said Lot 12 as revised by Scrivener's Error recorded in Docket 10302, Page 146, records of Pima County, Arizona;

Thence South 00 degrees 13 minutes 42 seconds East 24.00 feet upon the East line of said Lot 12 as revised by said Scrivener's Error, to a point on a line 24.00 feet Southerly of and parallel with the North line of said Lot 12, said point being the Point of Beginning;

Thence continue South 00 degrees 13 minutes 42 seconds East 191.66 feet upon said East line, as revised by said Scrivener's Error; Thence South 89 degrees 05 minutes 20 seconds East, 93.02 feet upon said East line;

Thence South 00 degrees 27 minutes 04 seconds East, 29.95 feet upon said East line, also being the East line of the Northwest quarter of Section 2, Township 14 South, Range 13 East, Gila and Salt River Base and Meridian, also being the West right of way line of Fairview Avenue, to the South line of said Lot 12;

Thence North 89 degrees 05 minutes 20 seconds West, 60.00 feet upon said South line to a point of curvature of a tangent curve concave to the North;

Thence Westerly upon said South line, upon the arc of said curve, to the right, having a radius of 150.00 feet and a central angle of 17 degrees 46 minutes 53 seconds for an arc distance of 46.55

feet to a point of reverse curvature of a tangent curve concave to the South;

Thence Westerly upon said South line, upon the arc of said curve to the left, having a radius of 150.00 feet and a central angle of 17 degrees 46 minutes 53 seconds for an arc distance of 46.55 feet to a Point of Tangency;

Thence North 89 degrees 05 minutes 20 seconds West, 169.22 feet upon said South line, to a line 227.32 feet West of and parallel with the Northerly portion of the East line of Lot 12 as shown on said Plat, not as revised by said Scrivener's Error;

Thence North 00 degrees 01 minutes 10 seconds West, 207.27 feet upon said parallel line, to said line 24.00 feet Southerly of and parallel with the North line of Lot 12;

Thence South 89 degrees 05 minutes 20 seconds East, 226.65 feet upon said parallel line to the Point of Beginning.

Parcel No. 2

A Sewer easement over that portion of Lot 12 in GRANT INTERSTATE COMMONS, a subdivision recorded in Book 46 of Maps and Plats, at Page 27, records of Pima County, Arizona, described as follows:

Commencing at the Southwest corner of said Lot 12;

Thence South 89 degrees 05 minutes 20 seconds East 40.01 feet upon the South line of said Lot 12 to the East line of that 20' wide public sewer easement as shown on said Grant Interstate Commons being the Point of Beginning;

Thence North 00 degrees 27 minutes 04 seconds West 15.00 feet upon said East line to the Northeast corner of said Easement;

Thence North 89 degrees 05 minutes 20 seconds West 20.01 feet upon the North line of said easement to the Northwest corner of said Easement;

Thence North 00 degrees 27 minutes 04 seconds West 5.00 feet upon the Northerly prolongation of the West line of said Easement to a line 20.00 feet Northerly of and Parallel with said South line of Lot 12;

Thence South 89 degrees 05 minutes 20 seconds East 172.27 feet upon said parallel line to a line 227.32 feet Westerly of and parallel with the Northerly portion of the East line of said Lot 12;

Thence South 00 degrees 01 minutes 10 seconds East 20.00 feet upon said parallel line to said South line of Lot 12;

Thence North 89 degrees 05 minutes 20 seconds West 152.11 feet upon said South line to the Point of Beginning.

Except any portion thereof lying within Parcel No. 1.

Description: 1117 W Grant aka APN 115160310 Lot 3 of GRANT INTERSTATE COMMONS, a subdivision of Pima County, Arizona, according to the map or plat thereof of record in the office of the County Recorder of Pima County, Arizona, in Book 46 of Maps and Plats at page 27 thereof

Description: 1101 and 1121 W Grant aka APN 115160330 includes 1131 and 1141 W Grant aka APN 115160320

Parcel No. 1:

Lots 4 and 5, of GRANT INTERSTATE COMMONS, according to Book 46 of Maps, Page 27, records of Pima County, Arizona;

Parcel No. 2:

A NON-EXCLUSIVE easement as set forth in the Declaration of Covenants, Conditions, Easements and Restrictions for Grant Interstate Commons, for ingress and egress recorded January 7, 1988 in Docket 8197, page 495.

Description: 1075 W Grant and 1085 W Grant 1075 W Grant aka APN 11516034B

Parcel No. 1:

That portion of Lot 6 of GRANT INTERSTATE COMMONS, a subdivision of Pima County, Arizona, according to the map or plat thereof of record in the office of the County Recorder of Pima County, Arizona, in Book 46 of Maps and Plats at Page 27 thereof, described as follows:

Beginning at the Northeast corner of said Lot 6;

Thence South 89 degrees 40 minutes 23 seconds West, along the North line of said Lot 6, a distance of 255.75 feet;

Thence South 22 degrees 46 minutes 18 seconds East, a distance of 215.07 feet to a point on the Southerly line of said Lot 6;

Thence North 54 degrees 46 minutes 02 seconds East (North 54 degrees 45 minutes 45 seconds East, record), along the Southerly line of said Lot 6, a distance of 32.81 to an angle point of said Lot 6;

Thence North 89 degrees 40 minutes 23 seconds East, along the South line of said Lot 6, a distance of 147.12 feet to the Southeast corner of said Lot 6;

Thence North 00 degrees 27 minutes 04 seconds West, along the East line of said Lot 6, a distance of 180.00 feet to the POINT OF BEGINNING.

Parcel No. 2:

A non-exclusive and perpetual easement and right of way over and across all driveways, roadways, and walkways for the purpose of vehicular and pedestrian ingress and egress under the terms, conditions and provisions of the Reciprocal Easement Agreement recorded October 2, 2000 in Docket 11395 at Page 1951, in the office of the Pima County Recorder.

Description: 1085 W Grant aka APN 11516034A

Parcel No. 1:

Lot 6, of GRANT INTERSTATE COMMONS, according to Book 46 of Maps, Page 27, records of Pima County, Arizona; *Except* that portion conveyed in Docket 11395, page 1947.

Parcel No. 2:

An Easement for Vehicular and Pedestrian ingress and egress and parking over all driveways, roadways and walkways as set forth in the Reciprocal Easement Agreement recorded in Docket 11395, page 1951.

Description: 1065 W Grant aka APN 115160350 Lot 7, of GRANT INTERSTATE COMMONS, according to Book 46 of Maps, Page 27, records of Pima County, Arizona

Authority: This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 Departmental Manual 8.1, and is published to comply with the requirements of 25 CFR 151.12 (c)(2)(ii) that notice of the decision to acquire land in trust be promptly provided in the **Federal Register**.

Bryan Newland,

Assistant Secretary—Indian Affairs.

[FR Doc. 2024–01467 Filed 1–24–24; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

[245D0102DM/DS62400000/DLSN00000/000000/DX62401]

Fiscal Year 2021 Service Contract Inventory

AGENCY: Office of Acquisition and Property Management, Interior.

ACTION: Notice of public availability.

SUMMARY: The Department of the Interior is publishing this notice to advise the public of the availability of the Fiscal Year (FY) 2021 Service Contract Inventory, in accordance with section 743 of Division C of the Consolidated Appropriations Act of 2010.

ADDRESSES: *Obtaining Documents:*

The Office of Federal Procurement Policy (OFPP) policy guides are available online at *https://www.whitehouse.gov/omb/management/office-federal-procurement-policy/.*

The Department of the Interior has posted its FY 2021 Service Contract Inventory on the Office of Acquisition and Property Management portion of the Department of the Interior website at *https://www.doi.gov/pam/service-contract-inventory.*

FOR FURTHER INFORMATION CONTACT: Valerie Green, Acquisition Analyst, Policy Branch, Office of Acquisition and Property Management (PAM), Department of the Interior. Phone number: 202–513–0797, email: *Valerie_green@ios.doi.gov.*

SUPPLEMENTARY INFORMATION:

Introduction

Section 743 of Division C of the Consolidated Appropriations Act of 2010 (Pub. L. 111–117) requires civilian agencies to prepare an annual inventory of their service contracts. The analyses help inform agency managers whether contractors are being used appropriately or if rebalancing the workforce may be required.

In addition to the agency analyses, the process includes extracting contract data from the Federal Procurement Data System (FPDS) and the System for Award Management (SAM) and the consolidated output file is posted for public use.

The Inventory provides information on service contract actions over $25,000 that the Department made in FY 2021. The information is organized by function to show how contracted resources are distributed throughout the Department. The Department's analysis of its Service Contract Inventory is summarized in the FY 2021 Service Contract Inventory Report. The 2021 Report was developed in accordance with guidance issued on December 19, 2011, and November 5, 2010, by the Office of Management and Budget's Office of Federal Procurement Policy.

Authority

The authority for this action is the Consolidated Appropriations Act of 2010 (Pub. L. 111–117).

Megan Olsen,

Director, Office of Acquisition and Property Management.

[FR Doc. 2024–01419 Filed 1–24–24; 8:45 am]

BILLING CODE 4334–63–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[BLM_UT_FRN_MO4500177193]

Notice of Public Meetings, Utah Resource Advisory Council, Utah

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meetings.

SUMMARY: In accordance with the Federal Land Policy and Management Act, as amended, the Federal Advisory Committee Act, and the Federal Lands Recreation Enhancement Act, the U.S. Department of the Interior, Bureau of Land Management's (BLM) Utah Resource Advisory Council (RAC) will meet as indicated below.

DATES: The Utah RAC will hold meetings on March 20, 2024, with a field tour on March 21, 2024; and August 14, 2024, with a field tour on August 15, 2024. Each meeting will be held in person, with an option for virtual participation on the first day. All meetings and field tours will take place from 8:00 a.m. to 4:30 p.m. Mountain Time (MT) and are open to the public.

ADDRESSES: The March 20 meeting will be held at the Ramada by Wyndham St. George, 1440 E St. George Blvd., St. George, Utah 84790. The March 21 field tour will visit Red Cliffs National Conservation Area and will commence and conclude at the BLM Utah St. George Field Office, 345 E Riverside Dr., St. George, Utah 84790.

The August 14 meeting will be held at the BLM Utah West Desert District Office, Simpson Springs North and South Conference Rooms, 491 John Glenn Rd., Salt Lake City, UT 84116. The August 15 field tour will visit the West Desert District area.

Agendas, and in-person and virtual meeting access information will be posted on the Utah RAC web page 30 days before each meeting at *https://www.blm.gov/get-involved/resource-advisory-council/near-you/utah/RAC.* Participants wishing to virtually attend the meeting should register 24 hours in advance of the start time.

Written comments to address the Utah RAC may be sent to the BLM Utah State Office, 440 West 200 South, Suite 500, Salt Lake City, UT 84101, or via email to *BLM_UT_External_Affairs@blm.gov* with the subject line ''Utah RAC Meeting.''

FOR FURTHER INFORMATION CONTACT: Christina Fithian, Management and Programs Analyst, BLM Utah State Office, 440 West 200 South, Suite 500, Salt Lake City, UT 84101; phone (801) 539–4022; or email *cfithian@blm.gov.* Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: The Utah RAC provides recommendations to the Secretary of the Interior, through the BLM, on a variety of public lands issues. Agenda topics for the March meeting include updates and overview of BLM district and state planning efforts, and other issues as appropriate. Agenda topics for the August meeting include updates and overview of BLM district and statewide planning efforts and other issues as appropriate. Members of the public are welcome on field tours but must provide their own transportation and meals. Individuals who plan to attend the field tour must RSVP at least one week in advance of the field tour with the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice. Additional details about the field tour will be posted to the Utah RAC web page at least two weeks prior to the tour date. A 30-minute public comment period will be held from 1:00 p.m. to 1:30 p.m. MT on March 20 and August 14. Depending on the number of people wishing to comment, the amount of time for individual oral comments may be limited. Written comments may also be submitted to the BLM Utah State Office at the address listed in the **ADDRESSES** section of this notice. All comments received will be provided to the Utah RAC members.

Public Disclosure of Comments: Before including your address, phone number, email address, or other personal identifying information in your comment, 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 the Utah RAC meeting will be maintained in the BLM Utah State Office and will be available for public inspection and reproduction during regular business hours within 90 days following the meeting. Minutes will also be posted to the Utah RAC web page.

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 **FOR FURTHER INFORMATION CONTACT** section of this notice at least seven 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.

(Authority: 43 CFR 1784.4–2)

Gregory Sheehan,

State Director.

[FR Doc. 2024–01496 Filed 1–24–24; 8:45 am]

BILLING CODE 4331–25–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNM930000.L14400000.BJ0000.BX0000]

Notice of Filing of Plat of Survey; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of official filing.

SUMMARY: The plat of survey of the following described lands is scheduled to be officially filed 30 days after the date of this publication in the Bureau of Land Management (BLM), New Mexico State Office, Santa Fe, New Mexico. The surveys announced in this notice are necessary for the management of lands administered by the agency indicated.

ADDRESSES: This plat will be available for inspection in the New Mexico State Office, Bureau of Land Management, 301 Dinosaur Trail, Santa Fe, New Mexico 85004–4427. Protests of a survey should be sent to the New Mexico State Director at the above address.

FOR FURTHER INFORMATION CONTACT: Michael L. Hart, Acting Chief Cadastral Surveyor; (505) 761–8908; *mlhart@blm.gov*. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION:

New Mexico Principal Meridian, New Mexico

The plat representing the dependent resurvey and survey of a tract of land in Townships 14 and 15 North, Range 16 West, accepted January 19, 2024, for Group No. 1215, New Mexico.

This plat was prepared at the request of the Bureau of Indian Affairs, Navajo Region.

A person or party who wishes to protest against this survey must file a written notice of protest within 30 calendar days from the date of this publication with the New Mexico State Director, Bureau of Land Management, stating that they wish to protest.

A statement of reasons for a protest may be filed with the notice of protest to the State Director, or the statement of reasons must be filed with the State Director within 30 days after the protest is filed. Before including your address, or other personal information in your protest, please be aware that your entire protest, 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: 43 U.S.C. Chap. 3.

Michael L. Hart,

Acting Chief Cadastral Surveyor of New Mexico.

[FR Doc. 2024–01451 Filed 1–24–24; 8:45 am]

BILLING CODE 4331–23–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–23545; PPWOCRADI0, PCU00RP14.R50000]

Request for Comments on a Draft of Updated National Register Bulletin: Identifying, Evaluating, and Documenting Traditional Cultural Places (Draft TCP Bulletin)

AGENCY: National Park Service, Department of the Interior.

ACTION: Request for comments.

SUMMARY: The National Park Service (NPS) is soliciting written comments from its Tribal, national, State, and local historic preservation partners, NPS regional offices and parks, other Federal agencies, and the public regarding the Draft TCP Bulletin.

DATES: Comments should be submitted by March 25, 2024.

ADDRESSES: A Portable Document Format (PDF) copy of the Draft TCP Bulletin may be accessed at: *https://parkplanning.nps.gov/TCPBulletin.*

A printed copy of the Draft TCP Bulletin is available upon request.

Comments may be submitted via email to *nr_tcp@nps.gov;* via the project website at *https://parkplanning.nps.gov/TCPBulletin;* or by U.S. mail or alternative carrier to Sherry A. Frear, Chief and Deputy Keeper, National Register of Historic Places/National Historic Landmarks Program, 1849 C Street NW, MS 7228, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Sherry A. Frear, Chief and Deputy Keeper, 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 NPS is the Federal agency tasked by the Secretary of the Interior with administering the National Register of Historic Places (National Register). The revision and reissue of National Register Bulletin 38: Guidelines for Evaluating and Documenting Traditional Cultural Places (TCP Bulletin) is in accordance with the authority provided by the National Preservation Act of 1966 (54 U. S. C. 300101, *et seq.*)(NHPA), and National Register Program regulations (36 CFR part 60). Completion of the project will significantly assist the Federal Advisory Council on Historic Preservation; Native Americans, Native Hawaiians, Native Alaskans; Federal agencies; State and Tribal Historic Preservation Officers; national, State, and local preservation organizations; preservation professionals; and the general public in the implementation of 36 CFR part 60, 36 CFR part 800, and environmental reviews pursuant to 54 U.S.C. 306107 and 306108, and 42 U.S.C. 4321, *et seq.*

With the release of the TCP Bulletin in 1990, the NPS provided guidance for evaluating and documenting places for inclusion in the National Register of Historic Places (National Register) for their historic relationships with traditional cultural communities. The TCP Bulletin was revised and reissued in 1992 to address changes in the NHPA providing that places of traditional religious and cultural importance to Native American Tribes or Native Hawaiian Organizations may be included in the National Register. It was revised and reissued again in 1998 to clarify that Traditional Cultural Places (TCPs) are not a new property type nor an additional level of significance. The TCP Bulletin as published in 1990, and revised in 1992 and 1998, has been an essential resource for evaluating and documenting TCPs. Over the past decades, there have been requests to the NPS for further clarification and expansion of this guidance from Native American Tribes, Native Hawaiian Organizations, State and Tribal Historic

Preservation Offices, Federal agencies, preservation professionals, and preservation organizations.

From 2011 to 2013, the NPS' National Register Program in Washington, DC, sponsored, attended, and participated in numerous meetings and workshops to solicit suggestions from the nation's preservation community on how to improve the guidance provided by the TCP Bulletin. As a result of this effort, the NPS received many verbal, written, and email comments about the TCP Bulletin from Native American Tribes, Native Hawaiian Organizations, State and Tribal Historic Preservation Officers, Federal agencies, national and regional preservation organizations, and preservation professionals throughout the country. The purpose of this effort was to ensure that an updated edition of the TCP Bulletin addressed the needs of the preservation community to the greatest possible extent. A draft document was prepared and readied in 2017 for issuance for comment, but was not released for comment.

In 2021, the NPS revived its efforts to revise and reissue the TCP Bulletin. The 2017 draft was further revised and titled National Register Bulletin: Identifying, Evaluating, and Documenting Traditional Cultural Places. In October 2022 the National Register Bulletin: Identifying, Evaluating, and Documenting Traditional Cultural Places (Draft TCP Bulletin) was publicly shared through the Draft TCP Bulletin project website at *https://parkplanning.nps.gov/TCPBulletin,* from which the Draft TCP Bulletin could be downloaded and comments could be uploaded. As noted on the project web page, comments could also be submitted to the Draft TCP Bulletin Outlook email box at *nr_tcp@nps.gov.*

From January through April 2023 the NPS conducted eleven (11) webinars directed to State and Tribal Historic Preservation Officers, Federal agencies, national and regional preservation organizations, preservation professionals, and the public, to present the Draft TCP Bulletin content, and answer questions regarding the revisions, and the revision and reissuance process. The webinars were attended by 402 individuals from 185 organizations. The NPS conducted government-to-government consultation through five (5) webinars, to present the Draft TCP Bulletin content, receive comments, and answer questions regarding the revisions, and the revision and reissuance process: four (4) for Native American Tribes; and one (1) for Native Hawaiian Organizations. These Tribal consultations reached individuals from 42 Tribes. The NPS further conducted consultation through one (1) webinar for Alaska Native Corporations.

The Draft TCP Bulletin was released for comment from November 1, 2022, through April 30, 2023. Eighty-five (85) submissions were received via letter, email, and the project website, totaling approximately 900 comments.

From May through October 2023 the NPS reviewed all written comments and revised the Draft TCP Bulletin accordingly, as follows:

Defined ''living community'' (pp. 22–23).

Clarified the difference between ''family,'' ''extended family,'' and ''living community'' (p. 22).

Expanded the discussion of cultural beliefs, customs, and practices (pp. 23–25).

Expanded the discussion of community history and community identity (pp. 25–26).

Clarified required TCP characteristics (p. 27).

Added an analysis of a listed TCP nomination (pp. 30–32).

Added an analysis of an unsuccessful TCP request for determination of eligibility (pp. 32–33).

Moved ''Section III. Terminology'' to a new subsection within Section II ''What Is a Traditional Cultural Place,'' titled ''Notes on Terminology'' (pp. 33–37).

Added discussion of adequacy of documentation submitted in a nomination, and the role of the Keeper in evaluating that documentation (p. 37).

Added discussion regarding the listing animals (pp. 12, 53).

Revised language regarding plants and animals as character-defining features (p. 53).

Corrected language regarding the reach of Criterion D to ethnographic, archeological, sociological, folkloric, or other studies (p. 66).

Added example to illustrate that information potential under Criterion D is not exclusive to archaeological data (p. 70).

Expanded guidance regarding assessing the level of significance for a place (pp. 105–106).

Clarified confidentiality issues and protections (pp. 39–45, 98–100).

Additional information added, old example removed, and new example added regarding determining a place's boundary (pp. 113–116).

Clarified definitions as used within the Draft TCP Bulletin for ''Native Americans'' and ''Native American Tribe'' (p. 125).

Technical edits correcting grammar and punctuation, and for clarity and readability, were made throughout.

(Authority: 54 U.S.C. 302103; 36 CFR 60.4)

Sherry A. Frear,

Chief and Deputy Keeper, National Register of Historic Places and National Historic Landmarks Program.

[FR Doc. 2024–01401 Filed 1–24–24; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

[RR01021200; 23XR0680A5; RX.15470004.00118T0]

Notice of Intent To Prepare an Environmental Impact Statement for the Scoggins Dam Safety Modifications Project

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of intent; request for comments.

SUMMARY: The Bureau of Reclamation (Reclamation) intends to prepare an environmental impact statement (EIS) for the Scoggins Dam Safety Modifications Project in the Tualatin Basin, Oregon. The purpose of the project is to improve public safety by reducing risk associated with severe seismic loadings while continuing to meet authorized project purposes. Reclamation is seeking public comments to identify significant issues or other alternatives to be addressed in the EIS.

DATES: Submit written comments on the scope of the EIS on or before February 26, 2024.

Reclamation will hold two in-person and two web-based virtual public scoping meetings on the following dates:

1. February 8, 2024, 5 p.m. to 6:30 p.m. (PST), Forest Grove, OR.

2. February 8, 2024, 6:30 p.m. to 8 p.m. (PST), Forest Grove, OR.

3. February 13, 2024, 11 a.m. to 1 p.m. (PST), Virtual (Zoom webinar).

4. February 13, 2024, 4 p.m. to 6 p.m. (PST), Virtual (Zoom webinar).

ADDRESSES: Send written scoping comments, requests to be added to the project mailing list, or requests for other special assistance needs via email to *BOR-SHA-SCNEPA@usbr.gov.*

The in-person meetings will be held at the Community Auditorium, 1915 Main Street, Forest Grove, OR 97116.

The web-based virtual meetings will be accessible at: *https://www.virtualpublicmeeting.com/scoggins-sod-eis.*

To view more information regarding this project, go to: *https://www.usbr.gov/pn/programs/sod/scoggins/index.html.*

FOR FURTHER INFORMATION CONTACT: Rebecca Thompson, Bureau of Reclamation, Columbia-Pacific Northwest Regional Office, 1150 Curtis Road, Suite 100, Boise, Idaho 83706–1234; telephone (208) 600–2134; email *BOR-SHA-SCNEPA@usbr.gov.*

Individuals 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 the above individual during normal business hours or to leave a message or question after hours. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: This **Federal Register** notice provides the public with information regarding Reclamation's intent to prepare an EIS pursuant to the National Environmental Policy Act (NEPA) of 1969, as amended. Reclamation will hold public scoping meetings to solicit comments on the scope of the EIS and the issues and alternatives that should be analyzed. Additionally, this notice serves to provide notice and request public input on potential effects on historic properties from this project in accordance with the Section 106 process as defined in the National Historic Preservation Act (36 CFR 800.2(d)(3)).

Background

Scoggins Dam is an earthfill embankment dam located on Scoggins Creek, a tributary of the Tualatin River, about 25 miles west of Portland, Oregon. Construction of this 151-foot-high, 2,700-foot-long dam was completed in 1975. The dam's reservoir, Henry Hagg Lake, is the primary source of water for the Tualatin Basin, storing nearly 60,000 acre-feet (active 53,600 acre-feet), providing water for municipal and industrial uses, irrigation, water quality, fish and wildlife habitat, recreation, and flood control. The facility is operated and maintained by the Tualatin Valley Irrigation District. There are roughly 11 miles of shoreline around the lake at full pool; recreation facilities and trails in this area are managed by Washington County as Scoggins Valley Park.

The area of Scoggins Dam and its reservoir have high potential for severe loading initiated by an extreme seismic event from identified active faults, primarily the Cascadia Subduction Zone (CSZ), a 600-mile fault stretching from northern California to northern Vancouver Island in Canada. At its closest, the CSZ is 118 miles to the west of the dam. The principal concerns for Scoggins Dam are uncontrolled releases or dam breaches (dam failure) caused by severe loading from a CSZ seismic event. The dam could also experience less severe loading from local crustal fault earthquakes, the closest being the Gales Creek fault zone.

Around 2007, after completing general investigations of potential seismic hazards at the dam, Reclamation recognized the potential impacts of a CSZ seismic event to Scoggins Dam. Reclamation continued field data collection and evaluation and risk analyses updates through 2011 to improve the understanding of seismic risk to the dam. Since 2011, Reclamation has looked at various structural and non-structural options to reduce seismic risk, including options that would increase reservoir storage. In 2022, following completion of a Dam Safety Advisory Team review, Reclamation began furthering design of a dam-safety only structural option that would reduce risk in accordance with Reclamation's public protection guidelines. This alternative will be evaluated in the EIS.

Proposed Action

Reclamation proposes to reduce the risk to Scoggins Dam in the occurrence of a CSZ seismic event by improving the loadings response performance of the facility. This would be accomplished by raising the dam crest, constructing a downstream shear key, creating a new spillway, and placing additional berm material over the existing dam. This project would not create additional reservoir storage in Henry Hagg Lake.

Proposed dam structure modifications include:

- Excavate and backfill portions of the crest and existing embankment.
- Construct a downstream shear key.
- Install a downstream rock filter and drain.
- Install a stability berm over the shear key and downstream slope of dam.
- Raise the dam crest by ~7 feet.
- Demolish the existing spillway, bridge, and ancillary features.
- Construct a new spillway, bridge, and ancillary features and extend outlet works.
- Construct a new two-lane road across the dam.

The existing road across the dam would be closed during construction. An alternative road would be constructed to provide safe public transport. The project may also require permanently rerouting a portion of the Stimson Mainline Road to accommodate the expanded stability berm.

In addition to work on the dam, the project would include modification to structures around the reservoir such as culverts and recreation trails. Materials for construction would be excavated at one or more borrow sites on the east side of the reservoir, requiring the removal of large trees. Alternatives for accessing and transporting materials from the borrow sites will be investigated in the EIS and may include a combination of constructing a temporary haul route and using the existing Scoggins Valley Road.

Previous Water Supply Studies

In 2001, the Tualatin Basin Water Supply Feasibility Study was initiated to evaluate a range of water supply options in the basin, including raising Scoggins Dam (publication in the **Federal Register** on December 13, 2001, 66 FR 64454). A draft EIS was prepared in 2007, but never published, due to the need to further evaluate the seismic risk of the CSZ to the dam. During 2013, some of the partners in the feasibility study began separately pursuing other water supply options that did not include Scoggins Dam or Reclamation participation. In 2017, following receipt of a Joint Project Authority secured in amendments to the Safety of Dams Act in 2015, Reclamation began working jointly with Clean Water Services, analyzing the feasibility of three options (dam safety only modification, dam raise, and new downstream dam); all options would have reduced seismic risk at the dam, and two would have increased water supply in the basin. In 2021, a determination was made to forego further development of increasing reservoir storage and to support development of a dam safety only modification.

Statutory Authority and Anticipated Permits

NEPA [42 U.S.C. 4321 *et seq.*] requires Federal agencies to conduct an environmental analysis of their proposed actions to determine whether the actions may significantly affect the human environment. The EIS will analyze the environmental effects of implementing the proposed action and alternatives, and a no action alternative. The U.S. Army Corps of Engineers, Tualatin Valley Irrigation District, Washington County, Joint Water Commission, Clean Water Services, and Confederated Tribes of the Grand Ronde Community of Oregon have accepted invitations to participate as cooperating agencies for the EIS. Other entities will be considered, as necessary, during the EIS process. In addition to NEPA, various other Federal, state, and local authorizations may be required for the proposed action. Applicable Federal laws include, but are not limited to, the Endangered Species Act, National

Historic Preservation Act, and Clean Water Act.

Public Disclosure

Before including your address, phone number, email address, or other personal, identifying information in your comment submission, please be advised that the entire submission, including your personal identifying information, may be made publicly available at any time. While a commenter may request that Reclamation withhold personal identifying information from public review, Reclamation cannot guarantee that it will be able to do so.

How To Request Reasonable Accommodation

For special assistance at one of the scoping meetings, please contact Rebecca Thompson or the TDD line (see **FOR FURTHER INFORMATION CONTACT** section of this notice) at least 5 working days before the meetings. All meeting facilities are physically accessible to people with disabilities. Information regarding this project is available in alternate formats upon request.

Jennifer Carrington,

Regional Director, Columbia-Pacific Northwest Region, Bureau of Reclamation.

[FR Doc. 2024–01410 Filed 1–24–24; 8:45 am]

BILLING CODE 4332–90–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

[RR040U2000, XXXR4081G3, RX.05940913.FY19400]

Public Meeting of the Glen Canyon Dam Adaptive Management Work Group

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act of 1972, the Bureau of Reclamation (Reclamation) is publishing this notice to announce that a Federal Advisory Committee meeting of the Glen Canyon Dam Adaptive Management Work Group (AMWG) will take place. The meeting is open to the public.

DATES: The meeting will be held in-person and virtually on Wednesday, February 28, 2024, from 9:30 a.m. to approximately 5 p.m. (MST); and Thursday, February 29, 2024, from 8:30 a.m. to approximately 3:30 p.m. (MST).

ADDRESSES: The in-person meeting will be held at the Hilton Garden Inn, Phoenix Tempe University Research Park, 7290 S Price Road, Tempe, AZ 85283 in the Ballroom.

The virtual meeting held on Wednesday, February 28, 2024, may be accessed at *https://rec.webex.com/rec/j.php?MTID=ma0fe40fdac47cd7320a08ec42e37fce1;*

Meeting Number: 2764 950 7827, Password: AMP28.

The virtual meeting held on Thursday, February 29, 2024, may be accessed at *https://rec.webex.com/rec/j.php?MTID=m3269f42e176cf9a4fa9fe53881e3a0ee;*

Meeting Number: 2763 074 1381, Password: AMP29.

FOR FURTHER INFORMATION CONTACT: Mr. William Stewart, Bureau of Reclamation, telephone (385) 622–2179, email at *wstewart@usbr.gov.* Individuals 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 Glen Canyon Dam Adaptive Management Program (GCDAMP) was implemented as a result of the Record of Decision on the Operation of Glen Canyon Dam Final Environmental Impact Statement to comply with consultation requirements of the Grand Canyon Protection Act (Pub. L. 102–575) of 1992. The AMWG makes recommendations to the Secretary of the Interior concerning Glen Canyon Dam operations and other management actions to protect resources downstream of Glen Canyon Dam, consistent with the Grand Canyon Protection Act. The AMWG meets two to three times a year.

Agenda: The AMWG will meet to receive updates on: (1) current basin hydrology and water year 2024 operations; (2) experiments considered for implementation in 2024; (3) the status of threatened and endangered species; (4) long-term funding considerations. The AMWG will also discuss other administrative and resource issues pertaining to the GCDAMP. To view a copy of the agenda and documents related to the above meeting, please visit Reclamation's website at *https://www.usbr.gov/uc/progact/amp/amwg.html.*

Meeting Accessibility/Special Accommodations: The meeting is open to the public. Please make requests in advance for sign language interpreter services, assistive listening devices, or other reasonable accommodations. We ask that you contact Mr. William Stewart (see **FOR FURTHER INFORMATION CONTACT** 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.

Public Disclosure of Comments: Time will be allowed on both days for any individual or organization wishing to make extemporaneous and/or formal oral comments. Depending on the number of persons wishing to speak, and the time available, the time for individual comments may be limited. Interested parties should contact Mr. William Stewart (see **FOR FURTHER INFORMATION CONTACT**) for placement on the public speaker list for this meeting. Members of the public may also choose to submit written comments by emailing them to *wstewart@usbr.gov.* Due to time constraints during the meeting, the AMWG is not able to read written public comments. All written comments will be made part of the public record and will be provided to the AMWG members.

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.

William Stewart,

Adaptive Management Group Chief, Upper Colorado Basin—Interior Region 7.

[FR Doc. 2024–01384 Filed 1–24–24; 8:45 am]

BILLING CODE 4332–90–P

INTERNATIONAL TRADE COMMISSION

Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has received a complaint regarding *Certain Network Equipment Supporting NETCONF,* DN 3718; the Commission is soliciting comments on any public interest issues raised by the

complaint or complainant's filing pursuant to the Commission's Rules of Practice and Procedure.

FOR FURTHER INFORMATION CONTACT: Lisa R. Barton, Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov.* For help accessing EDIS, please email *EDIS3Help@usitc.gov.*

General information concerning the Commission may also be obtained by accessing its internet server at United States International Trade Commission (USITC) at *https://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission has received a complaint and a submission pursuant to § 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of Optimum Communications Services, Inc. on January 19, 2024. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain network equipment supporting NETCONF. The complaint names as respondents: Changsha Silun Network Technology Co., Ltd. of China; Hunan Maiqiang Network Technology Company Limited of China; Hunan Zikun Information Technology Co., Ltd. of China; and Guangzhou Qiton Electronics Technology Co., Ltd. of China. The complainant requests that the Commission issue a general exclusion order, and cease and desist orders.

Proposed respondents, other interested parties, and members of the public are invited to file comments on any public interest issues raised by the complaint or § 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the requested remedial orders would impact United States consumers.

Written submissions on the public interest must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation. Any written submissions on other issues must also be filed by no later than the close of business, eight calendar days after publication of this notice in the **Federal Register**. Complainant may file replies to any written submissions no later than three calendar days after the date on which any initial submissions were due, notwithstanding § 201.14(a) of the Commission's Rules of Practice and Procedure. No other submissions will be accepted, unless requested by the Commission. Any submissions and replies filed in response to this Notice are limited to five (5) pages in length, inclusive of attachments.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above. Submissions should refer to the docket number (''Docket No. 3718'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, Electronic Filing Procedures [1]). 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. Persons with questions regarding filing should contact the Secretary at *EDIS3Help@usitc.gov.*

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) by the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. appendix 3; or (ii) by U.S. government employees and contract personnel,[2] solely for cybersecurity purposes. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.[3]

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of §§ 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

By order of the Commission.

Issued: January 22, 2024.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2024–01481 Filed 1–24–24; 8:45 am]

BILLING CODE 7020–02–P

[1] Handbook for Electronic Filing Procedures: *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf.*

[2] All contract personnel will sign appropriate nondisclosure agreements.

[3] Electronic Document Information System (EDIS): *https://edis.usitc.gov.*

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1388]

Certain Cellular Base Station Communication Equipment, Components Thereof, and Products Containing Same, 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 15, 2023, under section 337 of the Tariff Act of 1930, as amended, on behalf of Motorola Mobility LLC of Chicago, Illinois. The complaint alleges violations of 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 cellular base station communication equipment, components thereof, and products containing same by reason of the infringement of certain claims of U.S. Patent No. 11,184,130 (''the '130 patent''); U.S. Patent No. 11,601,896 (''the '896 patent''); U.S. Patent No. 11,284,466 (''the '466 patent''); and U.S. Patent No. 10,869,234 (''the '234 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 19, 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 11 and 14–20 of the '130 patent; claims 11–20 of the '896 patent; claims 1–10 and 12–15 of the '466 patent; and claims 12–19 of the '234 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 ''cellular base station communication equipment, specifically 5G NR radio units and baseband units, components thereof, and products containing same'';

(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: Motorola Mobility LLC, 222 W Merchandise Mart Plaza, Suite 1800, Chicago, Illinois 60654.

(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: Ericsson AB, Torshamnsgatan 23, Kista, 16480 Stockholm, Sweden.

Telefonaktiebolaget LM Ericsson, Torshamnsgatan 21, Kista, SE–164 83, Stockholm, Sweden.

Ericsson Inc., 6300 Legacy Drive, Plano, TX 75024.

(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 19, 2024.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2024–01407 Filed 1–24–24; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Clean Water Act

On January 17, 2024, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the Northern District of California in the lawsuit entitled *United*

States, the State of Illinois, and Alabama Department of Environmental Management v. *Swinerton Builders,* Civil Action No. 3:24–cv–00274.

In their complaint, the United States and the States of Illinois and Alabama allege that Swinerton Builders (Swinerton) violated the Clean Water Act during construction of solar energy facilities in Alabama, Idaho, and Illinois. The United States and the States allege that Swinerton discharged sediment in stormwater from the Alabama and Idaho sites to nearby waters without authorization from a discharge permit, and violated the conditions and limitations in Swinerton's discharge permits at the Alabama and Illinois sites. The proposed Consent Decree requires Swinerton to implement significant mitigation actions to offset the environmental harms of its discharges in Alabama and Idaho. The Consent Decree also requires Swinerton to pay a civil penalty of $2,300,000 to the plaintiffs, with $1,614,600 to the United States, $144,900 to the State of Illinois, and $540,500 to Alabama.

The publication of this notice opens a period for public comment on the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States, the State of Illinois, and Alabama Department of Environmental Management* v. *Swinerton Builders,* D.J. Ref. No. 90–5–1–1–12642. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ–ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the Consent Decree may be examined and downloaded at this Justice Department website: *https://www.justice.gov/enrd/consent-decrees.* We will provide a paper copy of the Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ–ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $11.50 (25 cents per page reproduction cost) payable to the United States Treasury. For a paper copy exclusive of exhibits and signature pages, the cost is $7.25.

Kathryn C. Macdonald,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2024–01453 Filed 1–24–24; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF LABOR

[Agency Docket Number DOL–2023–xxxx]

Amendment to Procedural Guidelines for the Development and Maintenance of the List of Goods Produced by CL or Forced Labor

AGENCY: The Bureau of International Labor Affairs, Department of Labor.

ACTION: Notice of amendment to procedural guidelines for the development and maintenance of a list of goods produced by child labor or forced labor in violation of international standards.

SUMMARY: The U.S. Department of Labor's Bureau of International Labor Affairs (''ILAB'') amends its procedural guidelines (''Guidelines'') for the development and maintenance of a list of goods from countries that ILAB has reason to believe are produced by child labor or forced labor in violation of international standards (''List''). The Guidelines establish the process for the public submission of information and the evaluation and reporting process to be used by the U.S. Department of Labor's (''DOL or Department'') Office of Child Labor, Forced Labor, and Human Trafficking (''Office'') in ILAB in maintaining and updating the List. DOL is required to develop and make available to the public the List pursuant to the Trafficking Victims Protection Reauthorization Act of 2005.

DATES: Submitters of information are requested to provide their submission to DOL's Office of Child Labor, Forced Labor, and Human Trafficking (OCFT) at the email or physical address below by January 22, 2024.

ADDRESSES:

To Submit Information: Information should be submitted directly to OCFT, Bureau of International Labor Affairs, U.S. Department of Labor. Comments, identified as Docket No. DOL–2023–xxxx, may be submitted by any of the following methods:

Federal eRulemaking Portal: The portal includes instructions for submitting comments. Parties submitting responses electronically are encouraged not to submit paper copies.

Facsimile (fax): OCFT at 202–693–4830.

Mail, Express Delivery, Hand Delivery, and Messenger Service (1 copy): Nadia Al-Dayel at U.S. Department of Labor, ILAB/Office of Child Labor, Forced Labor, and Human Trafficking, 200 Constitution Ave. NW, Room S–5317, Washington, DC 20210.

Email: Email submissions should be addressed to *Nadia Al-Dayel.* Email: (*al-dayel.nadia.a@dol.gov*)

508 Compliance: Pursuant to section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794d), as amended. Section 508 became enforceable on June 21, 2001, and the Revised 508 standards issued by the United States Access Board (36 CFR part 1194), January 2018 require that Information and Communication Technology (ICT) procured, developed, maintained, and used by Federal departments and agencies is accessible to and usable by Federal employees and members of the public including people with disabilities. All documents received in electronic format must be accessible using assistive technologies such as a screen reader, *e.g.,* Job Aid with Speech (JAWS), NonVisual Desktop Access (NVDA), ZoomText, to name a few. The product should also be navigable using other means such as a keyboard or voice commands. Accessible document formats are either Microsoft Word or equivalent and Portable Document Format with OCR.

The Department of Labor requests that your submissions through the portal comply with our DOL Policies as well as the 508 Standards as referenced above.

FOR FURTHER INFORMATION CONTACT: Nadia Al-Dayel. Phone: (202) 693–4896.

SUPPLEMENTARY INFORMATION: Through this notice, DOL incorporates an amendment to the Department's mandate for the development and maintenance of the List set forth in the Frederick Douglass Trafficking Victims Prevention and Protection Reauthorization Act of 2018, Sec. 133(a), Public Law 115–425, 132 Stat. 5472. This 2018 Act directs that the List include, ''to the extent practicable, goods that are produced with inputs that are produced with forced labor or child labor.''

Section 105(b)(1) of the Trafficking Victims Protection Reauthorization Act of 2005 (''TVPRA of 2005''), 22 U.S.C. 7112(b)(1), directed the Secretary of Labor, acting through the Bureau of International Labor Affairs, to ''carry out additional activities to monitor and combat forced labor and child labor in foreign countries as described in paragraph (2).'' Section 105(b)(2)(C) of

the TVPRA, 22 U.S.C. 7112(b)(2)(C), directed the Department to ''[d]evelop and make available to the public a list of goods from countries that the Bureau of International Labor Affairs has reason to believe are produced by forced labor or child labor in violation of international standards.''

The Office carries out the Department's responsibilities in the TVPRA of 2005, as amended. Pursuant to this mandate, DOL published in the **Federal Register** a set of procedural guidelines that ILAB follows in the development and maintenance of the List. 72 FR 73374 (Dec. 27, 2007). The Frederick Douglass Trafficking Victims Prevention and Protection Reauthorization Act of 2018 expanded the scope of the Department's mandate for the development and maintenance of the List. Pursuant to this law, the List must also include goods that are produced with inputs that are produced with forced labor or child labor. Accordingly, the Department initially amended the Guidelines with one technical change to incorporate this new mandate, 85 FR 29487 (May 15, 2020), and is further amending the Guidelines to incorporate additional technical changes under this mandate. Additionally, the Department makes changes to align the Guidelines with existing procedures.

Though the Guidelines were initially adopted after offering the public an opportunity to submit comments, the Department is not seeking comment on this amendment. The Department notes that the amendment restates changes in the enabling legislation, the Frederick Douglass Trafficking Victims Prevention and Protection Reauthorization Act of 2018, and the Guidelines themselves simply clarify the process by which the Department develops and maintains the List as required under the TVPRA.

The Office will evaluate all information received according to the processes outlined in these amended Guidelines. Goods that meet the criteria outlined in these amended Guidelines will be placed on the List, published in the **Federal Register** and on the DOL website.

Sections Revised

This notice makes the following revisions to the Guidelines. First, in order to reflect the List's mandate, as revised by the Frederick Douglass Trafficking Victims Prevention and Protection Reauthorization Act of 2018, revisions to Section A of the Guidelines are necessary. The Department therefore integrates language about supply chains into the description of each of the factors considered in the development and maintenance of the List in Section A, and defines the term ''supply chain'' in Section C. Second, the Department adds one sentence to further explain its procedures for adding goods produced with inputs produced with child labor or forced labor to the List: ''If child labor or forced labor was used in the production or extraction of a good, and that good is likely to be found in the supply chain of a downstream good, then the downstream good and the country in which it was produced may be placed on the List.'' Third, the Department updates and removes one sentence from Section A to better align with existing procedures for the maintenance of the List in section B. The Department therefore replaces the word ''inform'' with ''notify'' in Section A and removes the following sentence from Section A: ''The Office will review these responses and make a determination as to their relevance.'' Fourth, the Department replaces the phrase ''taken into consideration'' with ''considered'' in Section A. Fifth, the Department adds ''non-public'' to clarify the sentence, ''DOL's postings on its website of non-public source material used in identifying goods and countries on the List will be redacted to remove company or individual names, and other confidential material, pursuant to applicable laws and regulations'' in Section A. Sixth, the Department replaces the word ''removed'' with ''considered for removal'' in Section B. Finally, the Department removes references to the initial creation of the List as no longer relevant and updates the definition of ''forced labor'' by removing gender-specific language.

Final Procedural Guidelines

A. Sources of Information and Factors Considered in the Development and Maintenance of the List

The Office will make use of all relevant information, whether gathered through research, public submissions of information, a public hearing, interagency consultations, or other means, in developing the List. In the interest of maintaining a transparent process, the Office will not accept classified information in developing the List. The Office may request that any such information brought to its attention be declassified. If submissions contain confidential or personal information, the Office may redact such information in accordance with applicable laws and regulations before making the submission available to the public.

In evaluating information, the Office will consider and weigh several factors, including:

1. Nature of information. Whether the information about child labor, forced labor, or supply chains gathered from research, public submissions, hearing testimony, or other sources is relevant and probative, and meets the definitions of child labor or forced labor.

2. Date of information. Whether the information about child labor or forced labor in the production of the good or the good's supply chain is no more than 7 years old at the time of receipt. More current information will generally be given priority, and information older than 7 years will generally not be considered.

3. Source of information. Whether the information, either from primary or secondary sources, is from a source whose methodology, prior publications, degree of familiarity and experience with international labor standards or supply chains, and/or reputation for accuracy and objectivity, warrants a determination that it is relevant and probative.

4. Extent of corroboration. The extent to which the information about the use of child labor or forced labor in the production of a good or a good's supply chain is corroborated by other sources.

5. Significant incidence of child labor or forced labor. Whether the information about the use of child labor or forced labor in the production of a good or a good's supply chain warrants a determination that the incidence of such practices is significant in the country or good in question. Information that relates only to a single company or facility; or that indicates an isolated incident of child labor or forced labor, will ordinarily not weigh in favor of a finding that a good is produced in violation of international standards. Information that demonstrates a significant incidence of child labor or forced labor in the production of a particular good or a good's supply chain, although not necessarily representing a pattern or practice in the industry as a whole, will ordinarily weigh in favor of a finding that a good is produced in violation of international standards. Likewise, information that demonstrates that a good with significant incidence of child labor or forced labor in its production is an input to a downstream good will ordinarily weigh in favor of a finding that the downstream good is produced in violation of international standards.

In determining which goods and countries are to be placed on the List, the Office will, as appropriate, take into consideration the stages in the chain of a good's production. To the extent practicable, the List will include goods that are produced with inputs that are

produced with forced labor or child labor. If child labor or forced labor was used in both the production or extraction of raw materials/component articles and the manufacture or processing of a final good, then both the raw materials/component articles and the final good, and the country/ies in which such labor was used, may be placed on the List. This is to ensure a direct correspondence between the goods and countries which appear on the List, and the use of child labor or forced labor. If child labor or forced labor was used in the production or extraction of a good, and that good is likely to be found in the supply chain of a downstream good, then the downstream good and the country in which it was produced may be placed on the List.

Information on government, industry, or third-party actions and initiatives to combat child labor or forced labor will be considered, although this information is not necessarily sufficient in and of itself to prevent a good and country from being listed. In evaluating such information, the Office will consider particularly relevant and probative any evidence of government, industry, and third-party actions and initiatives that are effective in significantly reducing if not eliminating child labor and forced labor.

Before publication of the List, the Office will notify the relevant foreign governments of their presence on the List and request their responses. The List, along with a listing of the sources used to identify the goods and countries (''entries'') on it, will be published in the **Federal Register** and on the DOL website. The List will represent DOL's conclusions based on all relevant information available at the time of publication.

For each entry, the List will indicate whether the good is made using child labor, forced labor, or both. As the List continues to be maintained and updated, the List will also indicate the date when each entry was included. The List will not include any company or individual names. DOL's postings on its website of non-public source material used in identifying goods and countries on the List will be redacted to remove company or individual names, and other confidential material, pursuant to applicable laws and regulations.

B. Procedures for the Maintenance of the List

1. The Office will periodically review and update the List, as appropriate. The Office conducts ongoing research and monitoring of child labor, forced labor, and supply chains, and if relevant information is obtained through such research, the Office may add an entry to, or remove an entry from the List using the process described in Section A of the Guidelines. The Office may also update the List on the basis of public information submissions, as detailed below.

2. Any party may at any time file an information submission with the Office regarding the addition or removal of an entry from the List. Submitters should take note of the criteria listed in Section A of the Guidelines.

3. The Office will review any submission of information to determine whether it provides relevant and probative information.

4. The Office may consider a submission less reliable if it determines that: The submission does not clearly indicate the source(s) of the information presented; the submission does not identify the party filing the submission or is not signed and dated; the submission does not provide relevant or probative information; or, the information is not within the scope of the TVPRA and/or does not address child labor or forced labor as defined herein. All submissions received will be made available to the public on the DOL website, consistent with applicable laws or regulations.

5. In evaluating a submission, the Office will conduct further examination of available information relating to the good and country, as necessary, to assist the Office in making a determination concerning the addition or removal of the good from the List. The Office will undertake consultations with relevant U.S. government agencies and foreign governments, and may hold a public hearing for the purpose of receiving relevant information from interested persons.

6. In order for an entry to be considered for removal from the List, any person filing information regarding the entry must provide information that demonstrates that there is no significant incidence of child labor or forced labor in the production of the particular good in the country in question. In evaluating information on government, industry, or third-party actions and initiatives to combat child labor or forced labor, the Office will consider particularly relevant and probative any available evidence of government, industry, and third-party actions that are effective in significantly reducing if not eliminating child labor and forced labor.

7. Where the Office has made a determination concerning the addition, maintenance, or removal of the entry from the List, and where otherwise appropriate, the Office will publish an updated List in the **Federal Register** and on the DOL website.

C. Key Terms Used in the Guidelines

''Child Labor'': ''Child labor'' under international standards means all work performed by a person below the age of 15. It also includes all work performed by a person below the age of 18 in the following practices: (A) All forms of slavery or practices similar to slavery, such as the sale or trafficking of children, debt bondage and serfdom, or forced or compulsory labor, including forced or compulsory recruitment of children for use in armed conflict; (B) the use, procuring, or offering of a child for prostitution, for the production of pornography or for pornographic purposes; (C) the use, procuring, or offering of a child for illicit activities, in particular for the production and trafficking of drugs; and (D) work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety, or morals of children. The work referred to in subparagraph (D) is determined by the laws, regulations, or competent authority of the country involved, after consultation with the organizations of employers and workers concerned and taking into consideration relevant international standards. This definition will not apply to work specifically authorized by national laws, including work done by children in schools for general, vocational or technical education or in other training institutions, where such work is carried out in accordance with international standards under conditions prescribed by the competent authority, and does not prejudice children's attendance in school or their capacity to benefit from the instruction received.

''Countries'': ''Countries'' means any foreign country or territory, including any overseas dependent territory or possession of a foreign country, or the Trust Territory of the Pacific Islands.

''Forced Labor'': ''Forced labor'' under international standards means all work or service which is exacted from any person under the menace of any penalty for its nonperformance and for which the worker does not offer themselves voluntarily, and includes indentured labor. ''Forced labor'' includes work provided or obtained by force, fraud, or coercion, including: (1) By threats of serious harm to, or physical restraint against any person; (2) by means of any scheme, plan, or pattern intended to cause the person to believe that, if the person did not perform such labor or services, that person or another person would suffer serious harm or physical restraint; or (3) by means of the abuse

or threatened abuse of law or the legal process. For purposes of this definition, forced labor does not include work specifically authorized by national laws where such work is carried out in accordance with conditions prescribed by the competent authority, including: any work or service required by compulsory military service laws for work of a purely military character; work or service which forms part of the normal civic obligations of the citizens of a fully self-governing country; work or service exacted from any person as a consequence of a conviction in a court of law, provided that the said work or service is carried out under the supervision and control of a public authority and that the said person is not hired to or placed at the disposal of private individuals, companies or associations; work or service required in cases of emergency, such as in the event of war or of a calamity or threatened calamity, fire, flood, famine, earthquake, violent epidemic or epizootic diseases, invasion by animal, insect or vegetable pests, and in general any circumstance that would endanger the existence or the well-being of the whole or part of the population; and minor communal services of a kind which, being performed by the members of the community in the direct interest of the said community, can therefore be considered as normal civic obligations incumbent upon the members of the community, provided that the members of the community or their direct representatives have the right to be consulted in regard to the need for such services.

''Goods'': ''Goods'' means goods, wares, articles, materials, items, supplies, and merchandise.

''Indentured Labor'': ''Indentured labor'' means all labor undertaken pursuant to a contract entered into by an employee the enforcement of which can be accompanied by process or penalties.

''International Standards'': ''International standards'' means generally accepted international standards relating to forced labor and child labor, such as international conventions and treaties. These Guidelines employ definitions of ''child labor'' and ''forced labor'' derived from international standards.

''Produced'': ''Produced'' means mined, extracted, harvested, farmed, produced, created, and manufactured.

''Supply Chain'': ''Supply chain'' means the chain or network comprised of all organizations and individuals involved in producing, processing, trading, transporting and/or distributing a product or commodity from its point of origin, through any intermediary goods, to the final retailer.

Authority: 22 U.S.C. 7112(b)(2)(C) & (D) and 19 U.S.C. 2464; Executive Order 13126.

Signed at Washington, DC.

Thea Lee,

Deputy Undersecretary for International Affairs.

[FR Doc. 2024–01377 Filed 1–24–24; 8:45 am]

BILLING CODE 4510–28–P

OFFICE OF MANAGEMENT AND BUDGET

Agency Information Collection Activities; Request for Comments; Information on Meetings With Outside Parties

AGENCY: Office of Management and Budget, Executive Office of the President.

ACTION: Notice and request for comments.

SUMMARY: The Office of Information and Regulatory Affairs (OIRA) within the Office of Management and Budget (OMB) is proposing to revise the information collection 0348–0065 that it uses for members of the public who request a meeting with OIRA on rules under review. The information collected would be subject to the Paperwork Reduction Act (PRA) and this notice announces and requests comment on OIRA's proposal for such a collection.

DATES: Provide comments within 30 days of January 25, 2024.

ADDRESSES: Submit comments by the following method:

• *Federal eRulemaking portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments to *https://www.regulations.gov,* will be posted to the docket unchanged. Please submit comments only and cite ''Information Collection 0348–0065'' in all correspondence related to this collection. To confirm receipt of your comment(s), please check *regulations.gov,* approximately two to three business days after submission to verify.

FOR FURTHER INFORMATION CONTACT: Lisa Jones, 202–395–5897.

SUPPLEMENTARY INFORMATION:

Title: Information on Meetings with Outside Parties Pursuant to Executive Order 12866.

Abstract: Executive Order 12866, ''Regulatory Planning and Review,'' issued by President Clinton on September 30, 1993, as amended, establishes and governs the process under which OIRA reviews agency draft proposed and final regulatory actions. The Executive Order also establishes a disclosure process regarding the OIRA Administrator's (or his/her designee's) meetings with outside parties during formal review of a regulatory action (E.O. 12866 meetings) if such meetings occur.

Summary of Current Meeting Process. OIRA currently discloses the subject, date, and participants of the E.O. 12866 meeting on the *Reginfo.gov* website, as well as any materials provided to OIRA at such meetings.

These meetings occur at the initiative and request of outside parties who request a meeting to present views on a regulatory action under OIRA review. OIRA invites representatives from the agency or agencies that would issue the regulatory action. If such meetings occur, OIRA does not take minutes during the meeting but would post on *RegInfo.gov* any written materials provided by outside parties during these meetings, including the initial meeting request.

To help ensure transparency associated with meetings pursuant to Executive Order 12866, OIRA collects and discloses the following information from outside parties that request a meeting with OIRA to present their views on a regulatory action currently under review:

1. The name of the regulatory action under review on which the party would like to present its views.

2. Names of all attendees who will be present at the meeting from the outside party or parties, including each attendee's organization or affiliation.

3. Electronic copies of all briefing materials provided by the requester that will be used during the presentation.

4. An acknowledgment by the requesting party that all information submitted to OIRA pursuant to this collection and meeting request will be made publicly available at *Reginfo.gov.*

Proposed Revisions. OMB is considering revisions to this information collection with the goal of collecting additional information from meeting requesters to facilitate further transparency, as well as improve the efficiency and effectiveness of the meeting request process. Such information includes:

• Narrative descriptions accompanying meeting requests. An optional narrative description, provided by the requester, that states the purpose of the meeting and a brief, informal summary of the views they anticipate presenting. This information, which would be disclosed, would help OIRA

and action agencies invite the appropriate government officials, particularly when regulatory actions may address many subjects and have many separate provisions.

• Meeting requesters and represented interests. Individual or organizational meeting requesters often request meetings on behalf of themselves. Sometimes, however, a meeting requester does so on behalf of another individual or organization with interests in the regulatory action. For example, a law firm or government affairs firm may request an E.O. 12866 meeting on behalf of a client who has a stake in the regulatory action. In other cases, a congressional office may facilitate a meeting request for an individual constituent concerned about a rulemaking. OIRA thus proposes to collect information in mandatory fields on the (1) name of the individual requesting the meeting; (2) the meeting requester's organization, if any; (3) the name of the individual or organization whose interests are being represented; and (4) if the previous field names an individual, the individual's organizational affiliation, if any.

This information would facilitate transparency about who requests E.O. 12866 meetings, the interests represented, and the types of organizations involved. In addition, OIRA will also continue to take meeting attendance and, when feasible, update this information for the public record in cases where participant information is not initially provided.

• Previous request or participation in an E.O. 12866 meeting. OIRA proposes to require meeting requesters (the individual participants rather than their representatives) to note whether they have previously requested or participated in an E.O. 12866 meeting on any regulatory action within the last three years. This information, which would be disclosed, would allow OIRA to track participation of members of the public that have not historically requested meetings. In addition, OIRA proposes to ask and disclose whether a requester has previously requested or participated in an E.O. 12866 meeting associated with the specific regulatory action (at the same stage of the regulatory process).

• Request for accommodations. OIRA also welcomes meeting requesters to specify whether any accommodations are requested.

OIRA welcomes any and all public comments on the proposed revisions to the collection of information, such as the accuracy of OIRA's burden estimate, the practical utility of collecting this information, and whether there are additional pieces of information that could be collected from meeting requesters to further the disclosure provisions of Executive Order 12866.

Current actions: Proposal for revising an existing information collection requirement.

Type of review: Revision.

Affected public: Individuals and Households, Businesses and Organizations, State, Local, Territorial, or Tribal Governments.

Expected average annual number of respondents: 300.

Average annual number of responses per respondent: 2.

Total number of responses annually: 600.

Burden per response: 15 minutes.

Total average annual burden: 150 hours.

Request for comments: OMB anticipates that comments submitted in response to this notice will be summarized or included in the request for OMB approval. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose, or provide information to or for a Federal agency. 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 respond to a collection of information, search data sources, and complete and review the collection of information; to transmit or otherwise disclose the information; and to train personnel to be able to carry out the foregoing tasks.

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.

Privacy Act Statement: Response to this request for comment is voluntary. The information will be used to inform sound decision-making regarding OIRA's information collection. Please note that all submissions received in response to this notice may be posted on *https://www.regulations.gov/* or otherwise released in their entirety, including any personal and business confidential information provided. Do not include in your submissions any information of a confidential nature, such as personal or proprietary information; or any information you would not like to be made publicly available. The OMB System of Records Notice, OMB Public Input System of Records, OMB/INPUT/01, 88 FR 20913 (*https://www.federalregister.gov/documents/2023/04/07/2023-07452/privacy-act-of-1974-system-of-records*), includes a list of routine uses associated with the collection of this information.

Richard L. Revesz,

Administrator, Office of Information and Regulatory Affairs.

[FR Doc. 2024–01404 Filed 1–24–24; 8:45 am]

BILLING CODE 3110–01–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: Monday, January 26, 2024, from 3:00 p.m.–5:00 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 implementation and accountability suggestions; Commission Chair's closing remarks.

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 Bushmiller,

Senior Legal Counsel to the National Science Board.

[FR Doc. 2024–01533 Filed 1–23–24; 11:15 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Notice of Permit Modification Received Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permit modification request.

SUMMARY: The National Science Foundation (NSF) is required to publish a notice of requests to modify permits issued to conduct activities regulated under the Antarctic Conservation Act of 1978. This is the required notice of a requested permit modification.

DATES: Interested parties are invited to submit written data, comments, or views with respect to this permit application by February 26, 2024. Permit applications may be inspected by interested parties at the Permit Office, address below.

ADDRESSES: Comments should be addressed to Permit Office, Office of Polar Programs, National Science Foundation, 2415 Eisenhower Avenue, Alexandria, Virginia 22314.

FOR FURTHER INFORMATION CONTACT: Andrew Titmus, ACA Permit Officer, Office of Polar Programs, National Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA 22314; 703–292–4479; or *ACApermits@nsf.gov.*

SUPPLEMENTARY INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Public Law 95–541), as amended by the Antarctic Science, Tourism and Conservation Act of 1996, has developed regulations for the establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas as requiring special protection. The regulations establish such a permit system to designate Antarctic Specially Protected Areas.

Description of Permit Modification Requested: The Foundation issued a permit (ACA 2024–006) to Megan Cimino on August 14, 2023. The issued permit allows the permit holder and agents to enter Antarctic Specially Protected Areas (ASPAs), as well as engage in research activities that would result in Take, Harmful Interference, and Import into the USA. The permit holder and agents would conduct research as part of the Palmer Station Long-Term Ecological Research Program (Palmer LTER). The applicant would continue long term-research efforts to assess how annual environmental variability affects seabird diets, breeding success, growth rates, survival and recruitment, behavior, population trends, foraging success, and seasonal dispersal. The study species include the Adelie Penguin, Chinstrap Penguin, Gentoo Penguin, Brown Skua, South Polar Skua, Southern Giant Petrel, Blue-Eyed Shag, Kelp Gull, Snowy Sheathbill. All seabirds involved in this research would be released unharmed. Up to four timelapse cameras attached to poles on square bases anchored by rocks would be deployed to monitor penguin occupation patterns.

Now, the permit holder proposes a permit modification to include incidental mortality during research activities given the risk associated with various techniques used on different species. Most of the permitted research activities are unlikely to result in an incidental mortality (*e.g.,* censusing, mapping, collecting fecal samples) while other activities are higher risk (*e.g.,* stomach lavage, deploying trackers). Handling alone is unlikely to result in a mortality but due to the unpredictable nature of animal behavior and/or human error, handling could result in an injury and subsequent mortality. Further, the act of attaching tracking devices to penguins, skuas and petrels is unlikely to result in mortality, but the device could influence the animal's behavior, including aero and hydrodynamics. The permit holder requests the following number of incidental mortalities by species: Adelie Penguin (2), Chinstrap Penguin (2), Gentoo Penguin (2), Brown Skua (2), South Polar Skua (2), Southern Giant Petrel (2), Blue-Eyed Shag 1), Kelp Gull (1), Snowy Sheathbill (1).

Location: Palmer Station area, Antarctic Peninsula; ASPA 107, Dion Islands; ASPA 113, Litchfield Island; ASPA 115, Lagotellerie Island; ASPA 117, Avian Island; ASPA 139, Biscoe Point; ASPA 170, Charcot Island; and ASPA 176 Rosenthal Islands.

Dates: October 1, 2023—September 30, 2028.

Kimiko S. Bowens-Knox,

Program Analyst, Office of Polar Programs.

[FR Doc. 2024–01414 Filed 1–24–24; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–305; NRC–2024–0023]

Kewaunee Solutions, Inc.; Kewaunee Power Station; Environmental Assessment and Finding of No Significant Impact

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an exemption in response to the March 29, 2023, request from Kewaunee Solutions, Inc., (KS) Kewaunee Power Station (KPS), located in Kewaunee County, Wisconsin. The exemption would permit KS to use funds from the KPS nuclear decommissioning trust (NDT) for the management of site restoration activities and allow trust disbursements for site restoration activities to be made without prior notice to the NRC. The NRC staff is issuing an environmental assessment (EA) and finding of no significant impact (FONSI) associated with the proposed exemption.

DATES: The EA and FONSI referenced in this document are available on January 25, 2024.

ADDRESSES: Please refer to Docket ID NRC–2024–0023 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–2024–0023. 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.* For the convenience of the reader, instructions about obtaining materials referenced in this document are provided in the ''Availability of Documents'' section.
- NRC's PDR: The PDR, where you may examine and order copies of publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to *PDR.Resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8 a.m. and 4 p.m. eastern time, Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Karl Sturzebecher, Office of Nuclear Material

Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–415–8534, email: *Karl.Sturzebecher@nrc.gov*.

SUPPLEMENTARY INFORMATION:

I. Introduction

The NRC is considering issuance of an exemption from the requirements of paragraph (a)(8)(i)(A) of section 50.82 ''Termination of license,'' of part 50, ''Domestic Licensing of Production and Utilization Facilities,'' of title 10 of the *Code of Federal Regulations* (10 CFR) and paragraph (h)(1)(iv) of 10 CFR 50.75, ''Reporting and recordkeeping for decommissioning planning,'' to KS for Renewed Facility Operating License (RFOL) No. DPR–43 for KPS, located in Kewaunee County, Wisconsin. The exemption was submitted on March 29, 2023, and supplemented on October 5, 2023, in response to a request for additional information from the NRC staff dated August 29, 2023, pertaining to the decommissioning trust fund (DTF) cash flows provided in the initial exemption request submittal.

The exemption would permit KS to use funds from the KPS NDT for site restoration activities for KPS in the same manner that funds from the NDT are used under 10 CFR 50.82(a)(8) for decommissioning activities. The exemption request submitted by KPS was based on its analysis of the expected KPS decommissioning and site restoration costs, as provided in the KPS Post-Shutdown Decommissioning Activities Report (PSDAR), as supplemented, which was submitted by KS to the NRC on May 13, 2021.

The exemption would also allow trust disbursements for site restoration activities to be made without prior notice to the NRC, which is consistent with a previous exemption allowing KS to use the KPS NDT for the management of spent fuel, and to allow trust disbursements for spent fuel management to be made without prior NRC notice, which was approved on May 21, 2014. The NRC staff's analysis will include evaluation of the KPS NDT in view of the prior exemption.

Consistent with 10 CFR 51.21, ''Criteria for and identification of licensing and regulatory actions requiring environmental assessments,'' the NRC has determined that an EA is the appropriate form of environmental review for the requested action and prepared the following EA that analyzes the environmental impacts of the proposed action. Based on the results of the EA, which is provided in Section II of this document, and in accordance with paragraph (a) of 10 CFR 51.31, ''Determinations based on environmental assessment,'' the NRC has determined not to prepare an environmental impact statement for the proposed action and is issuing a FONSI.

II. Environmental Assessment

Description of the Proposed Action

The proposed action would partially exempt KS from the requirements set forth in 10 CFR 50.82(a)(8)(i)(A) and 10 CFR 50.75(h)(1)(iv). Specifically, the proposed action would allow KS to use funds from the KPS NDT for site restoration activities not associated with radiological decommissioning activities and would exempt KS from the requirement for prior notification to the NRC for these withdrawals.

The proposed action is in accordance with KS's application dated March 29, 2023, as supplemented by letter dated October 5, 2023.

Need for the Proposed Action

By letter dated February 25, 2013, the previous holder of the KPS RFOL, Dominion Energy Kewaunee (DEK), submitted a certification to the NRC indicating it would permanently cease power operations at KPS on May 7, 2013. On May 7, 2013, DEK permanently ceased power operation at KPS. On May 14, 2013, DEK certified that it had permanently defueled the KPS reactor vessel.

By letter dated March 29, 2023, as supplemented by letter dated October 5, 2023, KS requested an exemption to allow KPS NDT withdrawals, without prior written notification to the NRC, for site restoration activities for KPS.

As required by 10 CFR 50.82(a)(8)(i)(A), decommissioning trust funds may be used by the licensee if the withdrawals are for legitimate decommissioning activity expenses, consistent with the definition of decommissioning in 10 CFR 50.2, ''Definitions.'' This definition addresses radiological decommissioning and does not include activities associated with site restoration. Similarly, the requirements of 10 CFR 50.75(h)(1)(iv) restrict the use of decommissioning trust fund disbursements (other than for ordinary and incidental expenses) to decommissioning expenses until final decommissioning has been completed. Therefore, exemption from 10 CFR 50.82(a)(8)(i)(A) and 10 CFR 50.75(h)(1)(iv) is needed to allow KS to use funds from the KPS NDT for site restoration activities for KPS.

In the October 5, 2023, supplement to the exemption, KS stated that the KPS DTF Status Report demonstrates that the KPS NDT contains the funds needed to cover the estimated costs of KPS radiological decommissioning and license termination, as well as spent fuel management and site restoration activities. The supplemental information also provided additional details on license termination, spent fuel management, site restoration costs, and total forecasted expenditure data, based on the DECON decommissioning method and the current schedule of decommissioning activities for KPS.

The adequacy of funds in the KPS NDT to cover the costs of activities associated with site restoration and radiological decommissioning through license termination is supported by the KS KPS PSDAR. To support site restoration activities not associated with radiological decommissioning, KS stated that it needs access to the funds in the KPS NDT in excess of those needed for radiological decommissioning.

The requirements of 10 CFR 50.75(h)(1)(iv) further provide that, except for withdrawals being made under 10 CFR 50.82(a)(8) or for payments of ordinary administrative costs and other incidental expenses of the NDT in connection with the operation of the NDT, no disbursement may be made from the NDT without written notice to the NRC at least 30 working days in advance. Therefore, an exemption from 10 CFR 50.75(h)(1)(iv) is also requested by KS to allow KS to use funds from the KPS NDT for spent fuel management and site restoration activities without prior NRC notification.

Environmental Impacts of the Proposed Action

The proposed action involves an exemption from regulatory requirements that are of a financial or administrative nature and that do not have an impact on the environment. Before the NRC could approve the proposed action, it would have to conclude that there is reasonable assurance that adequate funds are available in the NDT to complete all activities associated with radiological decommissioning as well as spent fuel management and site restoration. Therefore, there would be no decrease in safety associated with the use of the NDT to also fund activities associated with site restoration.

Section 50.82(a)(8)(v) of 10 CFR requires a licensee to submit a financial assurance status report annually between the time of submitting its site-specific decommissioning cost estimate and submitting its final radiation survey to demonstrate that residual radioactivity has been reduced to a level that permits termination of its license. Section 50.82(a)(8)(vi) of 10 CFR

requires that if the sum of the balance of any remaining decommissioning funds, plus expected rate of return, plus any other financial surety mechanism, does not cover the estimated cost to complete radiological decommissioning, additional financial assurance must be provided to cover the cost of completion. These annual reports provide a means for the NRC to continually monitor the adequacy of available funding. Since the exemption would allow KS to use funds from the KPS NDT that are in excess of those required for radiological decommissioning, the adequacy of the funds dedicated for radiological decommissioning would not be affected by the proposed exemption. Therefore, there is reasonable assurance that there would be no environmental impact due to lack of adequate funding for radiological decommissioning.

The proposed action would not significantly increase the probability or consequences of radiological accidents. The proposed action has no direct radiological impacts. There would be no change to the types or amounts of radiological effluents that may be released; therefore, there would be no change in occupational or public radiation exposure from the proposed action. There are no materials or chemicals introduced into the plant that could affect the characteristics or types of effluents released offsite. In addition, the method of operation of waste processing systems would not be affected by the exemption. The proposed action would not result in changes to the design basis requirements of structures, systems, and components (SSCs) that function to limit or monitor the release of effluents. All the SSCs associated with limiting the release of effluents would continue to be able to perform their functions. Moreover, no changes would be made to plant buildings or the site property from the proposed action. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action would have no direct impacts on land use or water resources, including terrestrial and aquatic biota, as it involves no new construction or modification of plant operational systems. There would be no changes to the quality or quantity of nonradiological effluents and no changes to the plant's National Pollutant Discharge Elimination System permits would be needed. In addition, there would be no noticeable effect on socioeconomic conditions in the region, no environment justice impacts, no air quality impacts, and no impacts to historic and cultural resources from the proposed action. Therefore, there are no significant nonradiological environmental impacts associated with the proposed action.

Accordingly, the NRC concludes that there are no significant environmental impacts associated with the proposed action.

Environmental Impacts of the Alternatives to the Proposed Action

As an alternative to the proposed action, the NRC staff considered denial of the proposed action (*i.e.,* the ''no-action'' alternative). Denial of the proposed action would result in no change in current environmental impacts. Therefore, the environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

There are no unresolved conflicts concerning alternative uses of available resources under the proposed action.

Agencies or Persons Consulted

No additional agencies or persons were consulted regarding the environmental impact of the proposed action. On January 17, 2024, the State of Wisconsin representative was notified of this EA and FONSI.

III. Finding of No Significant Impact

The requested exemption from 10 CFR 50.82(a)(8)(i)(A) and 10 CFR 50.75(h)(1)(iv) would allow KS to use funds from the KPS NDT for site restoration activities for KPS, without prior written notification to the NRC. The proposed action would not significantly affect plant safety, would not have a significant adverse effect on the probability of an accident occurring, and would not have any significant radiological or nonradiological impacts. The proposed action involves an exemption from requirements that are of a financial or administrative nature and that would not have an impact on the human environment. Consistent with 10 CFR 51.21, the NRC conducted the EA for the proposed action, and this FONSI incorporates by reference the EA included in Section II of this document. Therefore, the NRC concludes that the proposed action will not have significant effects on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

Other than KS's letter dated March 29, 2023, as supplemented by letter dated October 5, 2023, there are no other environmental documents associated with this review.

Previous considerations regarding the environmental impacts of operating KPS are described in NUREG–1437, Supplement 40, ''Generic Environmental Impact Statement for License Renewal of Nuclear Plants: Regarding Kewaunee Power Station, Final Report,'' which provides the latest environmental review of current operations and description of environmental conditions at KPS.

IV. Availability of Documents

The documents identified in the following table are available to interested persons through one or more of the following methods, as indicated.

Document description	Adams accession No./**Federal Register** Notice
Kewaunee Solutions, Inc., Request for Exemptions from 10 CFR 50.82(a)(8)(i)(A) and 50.75(h)(1)(iv) for Site Restoration Activities, dated March 29, 2023.	ML23093A031.
Kewaunee Solutions, Inc., Response to Request for Additional Information (RAI) Application for Kewaunee Solutions (KS) Site Restoration Activities (EPID NO. L–2023–LLE–0008), dated October 5, 2023.	ML23278A100.
NRC, Letter RAI KPS Exemption Site Restoration Final Repaired, dated August 29, 2023	ML23222A152.
Energy *Solutions* LLC., Notification of Amended Post-Shutdown Decommissioning Activities Report (Revision 2) for Kewaunee Power Station, dated May 13, 2021.	ML21145A083.
Kewaunee Power Station, FRN, Exemption from the Requirements of 10 CFR part 50, section 50.82(a)(8)(i)(A) and 50.75(h)(1)(iv) (TAC MF1438), dated May 21, 2014.	ML13225A224/79 FR 30900.
Dominion Energy Kewaunee, Inc., Kewaunee Power Station, Certification of Permanent Cessation of Power Operations, dated February 25, 2013.	ML13058A065.
Dominion Energy Kewaunee, Inc., Kewaunee Power Station, Certification of Permanent Removal of Fuel from the Reactor Vessel, dated May 14, 2013.	ML13135A209.

Document description	Adams accession No./**Federal Register** Notice
Kewaunee Solutions, Inc., Kewaunee Power Station, Decommissioning Fund Status Report, dated March 30, 2023.	ML23089A304.
NUREG–1437 Supplement 40, ''Generic Environmental Impact Statement for License Renewal of Nuclear Plants Supplement 40 Regarding Kewaunee Power Station,'' Final Report, dated August 2010.	ML102280229.

Dated: January 22, 2024.

For the Nuclear Regulatory Commission.

Karl J. Sturzebecher,

Project Manager, Reactor Decommissioning Branch, Division of Decommissioning, Uranium Recovery and Waste Programs, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2024–01484 Filed 1–24–24; 8:45 am]

BILLING CODE 7590–01–P

POSTAL SERVICE

International Product Change—Priority Mail Express International, Priority Mail International & First-Class Package International Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a Priority Mail Express International, Priority Mail International & First-Class Package International Service contract to the list of Negotiated Service Agreements in the Competitive Product List in the Mail Classification Schedule.

DATES: *Date of notice:* January 25, 2024.

FOR FURTHER INFORMATION CONTACT: Christopher C. Meyerson, (202) 268–7820.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on January 12, 2024, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Express International, Priority Mail International & First-Class Package International Service Contract 35 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2024–166 and CP2024–172.

Christopher Doyle,

Attorney, Ethics & Legal Compliance.

[FR Doc. 2024–01400 Filed 1–24–24; 8:45 am]

BILLING CODE 7710–12–P

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

Performance Review Board Membership

AGENCY: Office of Science and Technology Policy.

ACTION: Notice.

SUMMARY: The Office of Science and Technology Policy publishes the names of the members selected to serve on its SES Performance Review Board (PRB).

DATES: Membership is effective on the date of this notice to January 2026.

FOR FURTHER INFORMATION CONTACT: Ms. Caitlin Pepicelli, Human Capital Specialist, Office of Science and Technology Policy, 1650 Pennsylvania Ave. NW, Washington, DC 20504. Telephone 202–881–4946.

SUPPLEMENTARY INFORMATION: 5 U.S.C. 4314(c) requires each agency to establish, in accordance with regulations prescribed by the Office of Personnel Management, one or more PRBs. The purpose of this PRB is to review and make recommendations concerning proposed performance appraisals, ratings, bonuses, pay adjustments, and other appropriate personnel actions for incumbents of the SES positions. The Board shall consist of at least three members and more than half of the members shall consist of career appointees. The names and titles of the PRB members are as follows:

Marie Scott, Associate General Counsel, Children, Families and Aging Division, Department of Health and Human Services;

Scott Driggs, Chief Counsel, Office of the Chief Counsel, Denver, Department of Health and Human Services;

Rachel Park, Chief Counsel, Office of the Chief Counsel, New York, Department of Health and Human Services;

Constance Kossally, Chief Counsel, Office of the Chief Counsel, Atlanta, Department of Health and Human Services;

Alphonso J. Hughes, Executive Assistant Director, Administration Group, Bureau of ATF, Department of Justice;

Paula Lee, Chief Counsel, Office of the General Counsel, San Francisco, Department of Health and Human Services.

Dated: January 19, 2024.

Stacy Murphy,

Deputy Chief Operations Officer/Security Officer.

[FR Doc. 2024–01352 Filed 1–24–24; 8:45 am]

BILLING CODE 3270–F0–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99403; File No. 4–757]

Joint Industry Plan; Notice of Filing of a National Market System Plan Regarding Consolidated Equity Market Data

I. Introduction

Pursuant to section 11A of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 608 of Regulation National Market System (''NMS'') thereunder,[2] notice is hereby given that on October 23, 2023, Cboe BYX Exchange, Inc., Cboe BZX Exchange, Inc., Cboe EDGA Exchange, Inc., Cboe EDGX Exchange, Inc., Cboe Exchange, Inc., Investors Exchange LLC, Long Term Stock Exchange, Inc., MEMX LLC, MIAX PEARL, LLC, Nasdaq BX, Inc., Nasdaq ISE, LLC, Nasdaq PHLX LLC, Nasdaq Stock Market LLC, New York Stock Exchange LLC, NYSE American LLC, NYSE Arca, Inc., NYSE Chicago, Inc., NYSE National, Inc., and Financial Industry Regulatory Authority, Inc. (''FINRA'') (collectively, the ''SROs'' or ''Participants'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') a proposed new single national market system plan governing the public dissemination of real-time consolidated equity market data for national market system (''NMS'') stocks (the ''CT Plan'' or ''Plan'').[3] The Commission is publishing this notice to solicit comments on the proposed CT Plan from interested persons.

[1] 15 U.S.C. 78k–1.

[2] 17 CFR 242.608.

[3] *See* Letter from James P. Dombach, Davis Wright Tremaine LLP, to Vanessa Countryman, Secretary, Commission (Oct. 23, 2023) (''Transmittal Letter''). *See also* Attachment A (Limited Liability Company Agreement of CT Plan LLC).

II. Description of the CT Plan

The SROs have filed the proposed CT Plan pursuant to the Commission's September 1, 2023, Amended Order Directing the Exchange and the Financial Industry Regulatory Authority, Inc., To File a National Market System Plan Regarding Consolidated Equity Market Data.[4] Set forth below in Section II.A is the statement of the purpose of the new NMS plan regarding consolidated equity market data, along with information pursuant to Rules 608(a)(4) and (5) under the Act,[5] as prepared and submitted by the SROs to the Commission.[6]

A. Statement of Purpose

On September 1, 2023, the Commission ordered the SROs to act jointly in developing and filing with the Commission by October 23, 2023, a proposed new single NMS plan to govern the public dissemination of real-time consolidated equity market data for NMS stocks.[7] The SROs are filing the proposed Plan, as directed in the Amended Order. Following the implementation timelines discussed in Section A.3 below, the Plan would replace (1) the Consolidated Tape Association Plan (''CTA Plan''), (2) the Consolidated Quotation Plan (''CQ Plan''), and (3) the Joint Self-Regulatory Organization Plan Governing the Collection, Consolidation, and Dissemination of Quotation and Transaction Information for Nasdaq-Listed Securities Traded on Exchanges on an Unlisted Trading Privileges Basis (''UTP Plan''). The SROs propose that the Plan be in the form of a limited liability company agreement for a new company, CT Plan LLC (the ''Company''), with each SRO being a ''Member'' of the Company.

In addition to the provisions required by the Amended Order, the SROs have included the following additional provisions.

The SROs have included in Section 5.3 that the Operating Committee does not need to establish Processor Selection Procedures if the Operating Committee initially selects the CQ Plan and CTA Plan's processor and the UTP Plan's processor to provide the same services to the Company that are currently provided under the CQ Plan, CTA Plan, and UTP Plan. Because the focus of the Amended Order is the selection of a new independent Administrator rather than new Processors, the SROs believe it is reasonable for the Operating Committee to have the option of continuing with the current processors without having to go through an extensive procedure for selecting the processors. The SROs believe that this option also allows for quicker implementation of the Plan by allowing the Operating Committee to focus on the selection of the new Administrator.

Additionally, at the request of SEC Staff, the SROs have included a provision in Section 7.1 that, in the event of a Regulatory Halt and the relevant Processor is unable to disseminate notice of the Regulatory Halt, notice of the Regulatory Halt may be made via an alternate Processor, if available.

2. Governing or Constituent Documents

Not applicable.

3. Implementation of Plan

As set forth in the proposed Plan, and because the Members have already formed the Company as a limited liability company pursuant to the Delaware Limited Liability Company Act by filing a certificate of formation (the ''Certificate'') with the Delaware Secretary of State, the SROs propose that the Plan will become effective on the date (the ''Effective Date'') when approved by the Commission pursuant to Rule 608 of Regulation NMS as an NMS plan.

The SROs propose that the Plan would become operative after the steps set forth in Exhibit F of the proposed Plan are completed. Generally, the SROs believe there are six workstreams associated with the implementation of the Plan:

(1) Setting up the Plan's governance;

(2) Developing Plan fees, policies, and data subscriber agreements;

(3) Selecting the new Administrator;

(4) Contract negotiations with the new Administrator;

(5) Administrator setup; and

(6) Retirement of the CTA Plan, CQ Plan, and UTP Plan.

Within Exhibit F, the SROs have included the various steps comprising each workstream along with the timelines for completing each step. As identified in Exhibit F, some of the steps can be performed in parallel, and others have dependencies that need to be completed before they can begin. For example, a new Administrator cannot begin to set up operations until after the process to select such Administrator has been completed and the Plan has negotiated and executed a contract and related service level agreement with the selected Administrator. Likewise, the SROs believe that the fees and the policies of the proposed Plan—which cannot be determined until both an Operating Committee and Advisory Committee are convened—will drive the scope of the services that an Administrator will need to provide, which could impact the RFP responses of prospective bidders to become the Administrator. For example, if the Operating Committee decides to use a direct bill model, which is currently used by the CQ Plan and CTA Plan, the scope of the work of the Administrator would be materially different than if the Operating Committee determines to proceed with an indirect bill model, which is currently used by the UTP Plan. Other aspects of the potential fees and policies of the proposed Plan, such as whether there will be differences in professional and non-professional device fees, whether to provide an option to charge fees based on use of quote meter, or whether the current non-display use reporting will continue, will likewise have a material impact on the scope of services that the Administrator would be required to provide.

While the SROs will work expeditiously to complete the various steps outlined in Exhibit F, the timelines in Exhibit F are estimates based on the experience of the SROs and the current administrators. As a result, it is possible that the steps may take shorter or longer than estimated. Consequently, as set forth in Section 14.1, in the event a workstream listed in Exhibit F takes shorter or, due to factors outside the Operating Committee's reasonable control, takes longer than expected, the timelines for contingent steps shall be adjusted accordingly to account for such change. In such instances, the Operating Committee will include the adjustment in its written progress report to the Commission in accordance with Section 14.2. The SROs believe that such an approach is reasonable since although the timelines

[4] Securities Exchange Act Release No. 98271 (Sept. 1, 2023), 88 FR 61630 (Sept. 7, 2023) (File No. 4–757) (''Amended Order'').

[5] *See* 17 CFR 242.608(a)(4) and (a)(5).

[6] *See* Transmittal Letter, *supra* note 3. The statement of the purpose of the proposed CT Plan and the information required by Rules 608(a)(4) and (5) are reproduced verbatim from the Transmittal Letter; cross-references have been revised to conform with the footnote sequencing of this notice. Additionally, the Transmittal Letter states: ''Certain of the SROs (including Cboe Exchange, Inc., and its affiliated exchanges) have joined in this submission solely to satisfy the requirements of the Amended Order. Nothing in this submission should be construed as an agreement by any particular SRO with any analysis or conclusions set forth in the Amended Order, the prior Commission orders cited in the Amended Order, or the CT Plan. An SRO may submit public comments regarding the Plan, including comments objecting to the provisions in the Plan, challenging the legality of the Plan, or proposing modifications to the Plan.'' *Id.* at n.1.

[7] *See* Amended Order, *supra* note 4.

contained in Exhibit F are based on the SROs' and current administrators' experience, the ability to shorten or, in certain circumstances, lengthen the timeline reflected in Exhibit F is necessary due to factors outside the Operating Committee's reasonable control.

For example, the proposed timeline for the Request for Proposal (''RFP'') process to select a new Administrator does not take into account the potential need for additional rounds of communications from bidders. It is not unusual in an RFP bidding process to have multiple rounds of communications from bidders. For example, the OPRA RFP process in 2019 was projected to take four months and ended up taking 14 months to provide time for the bidders to respond to questions from the OPRA Plan.

Additionally, the SROs have budgeted four months for negotiations with the selected administrator to execute a contract. While the SROs recognize that the key terms of the services to be provided will be part of the RFP process, the actual contract negotiations cannot begin until an administrator is selected. The SROs note that it took approximately ten months to negotiate a new contract with the UTP Processor following the 2014 RFP process. While the new Operating Committee will be committed to negotiate in good faith, the SROs cannot anticipate all possible outcomes when negotiating at arms-length with a third party. Such negotiations could be more streamlined than anticipated and take shorter than estimated or could be protracted due to disagreements between the Operating Committee and the new Administrator as to terms that might not be covered in the RFP process.

Further, the SROs have set what they consider to be an aggressive timeline for the Administrator to set up operations. Assuming the new Administrator commits to such a timeline (which will be one of the elements of the RFP), the SROs note that there are dependencies outside of the control of either the Operating Committee and the new Administrator. Specifically, all vendors will need to be onboarded to the new Administrator before the new CT Plan can begin operations. The SROs note that when the UTP Plan repapered its customers, the process took over twelve months. Currently, there are over 600 vendors that take CQ/CTA and UTP data, and all those vendors would need to be onboarded so that there will be no disruption in service of consolidated data. If all 600+ vendors quickly complete the onboarding process, the onboarding process could take shorter than estimated; however, a few vendors delaying their onboarding could extend the entire process if a material number of data subscribers would be impacted.

The above examples are non-exhaustive, and the SROs are unable to predict all issues that might arise in the implementation process. As a result, the SROs have included the ability to shorten or lengthen the timelines set forth in Exhibit F. In order to lengthen the timelines, the SROs have included a requirement that any decision to lengthen the timeline must be made by an affirmative vote of the Operating Committee pursuant to Section 4.3(b) and must be based on a reasonable determination that the timeline needs to be extended. Additionally, as stated above, the Operating Committee will include the adjustment in its written progress report to the Commission in accordance with Section 14.2.

4. Development and Implementation Phases

Until the Operative Date, the SROs will continue to operate pursuant to the CQ Plan, CTA Plan, and UTP Plan with respect to the public dissemination of real-time consolidated equity market data for NMS stocks rather than the Plan.

5. Analysis of Impact on Competition

The SROs believe the proposed Plan complies with the Amended Order. The proposed Plan incorporates the existing substantive provisions of the CTA Plan, CQ Plan and UTP Plan, which have been approved by the Commission, together with the governance modifications required by the Commission's Amended Order.

6. Written Understanding or Agreements Relating to Interpretation of, or Participation in, Plan

Not applicable.

7. Approval of Amendment of the Plan

Not applicable.

8. Terms and Conditions of Access

The Plan provides that any entity registered as a national securities exchange or national securities association under the Exchange Act may become a Member by: (i) providing written notice to the Company, (ii) executing a joinder to the Plan, at which time Exhibit A of the Plan shall be amended to reflect the addition of such exchange or association as a Member, (iii) paying a Membership Fee to the Company, and (iv) executing a joinder to any other agreements to which all of the other Members have been made party in connection with being a Member.

9. Method of Determination and Imposition, and Amount of Fees and Charges

Not applicable.

10. Method and Frequency of Processor Evaluation

Not applicable

11. Dispute Resolution

The Plan does not include provisions regarding resolution of disputes between or among the Members.

III. Solicitation of Comments

The Commission seeks comment on the proposed CT Plan. Interested persons are invited to submit written data, views, and comments concerning the foregoing, including whether the proposal is consistent with the Act and the rules thereunder, as well as with the Amended Order. In addition to the specific questions set forth below, the Commission asks commenters to consider generally whether the proposed CT Plan is appropriately structured, and whether its provisions are appropriately drafted, to support the ''prompt, accurate, reliable, and fair collection, processing, distribution, and publication of information with respect to quotations for and transactions in such securities and the fairness and usefulness of the form and content of such information.'' [8]

Accordingly, the Commission requests comments on matters including, but not limited to, the following:

1. Whether the proposed CT Plan is consistent with the Amended Order;

2. Whether, consistent with Rule 608 of Regulation NMS, the terms of the proposed CT Plan are necessary or appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanisms of, a national market system, or otherwise in furtherance of the purposes of the Act; [9]

3. Whether modifications to the proposed CT Plan, or conditions to its approval, would be required to make the proposed plan necessary or appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanisms of, a national market system, or otherwise in furtherance of the purposes of the Act; [10]

[8] 15 U.S.C. 78k–1(c)(1)(B).

[9] *See* 17 CFR 242.608(b)(2)

[10] *See id.*

4. Whether the proposed CT Plan is consistent with Congress's finding, in section 11A(1)(C)(iii) of the Act, that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to ensure ''the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities'';[11]

5. Whether, consistent with the purposes of section 11A(c)(1)(B) of the Act,[12] the proposed CT Plan is appropriately structured, and whether its provisions are appropriately drafted, to support the prompt, accurate, reliable, and fair collection, processing, distribution, and publication of information with respect to quotations for and transactions in NMS stocks, and the fairness and usefulness of the form and content of such information; and

6. Whether the proposed timeline for implementation of the proposed CT Plan is necessary or appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanisms of, a national market system, or otherwise in furtherance of the purposes of the Act.

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 4–757 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 4–757. 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 website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all written statements with respect to the proposed CT Plan that are filed with the Commission, and all written communications relating to the proposed CT Plan 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 Participants' principal offices. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. 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 4–757 and should be submitted on or before February 26, 2024.

By the Commission.

Dated: January 19, 2024.

Sherry R. Haywood,

Assistant Secretary.

Attachment A

LIMITED LIABILITY COMPANY AGREEMENT

OF

CT PLAN LLC

a Delaware limited liability company

(1) This LIMITED LIABILITY COMPANY AGREEMENT (this ''*Agreement*'') dated as of the [•] day of [•], [•] is made and entered into by and among the parties identified in *Exhibit A,* as *Exhibit A* may be amended from time to time (the ''*Members*''), which are the members of CT Plan LLC, a Delaware limited liability company (the ''*Company*''). The Members shall constitute the ''members'' (as that term is defined in the Delaware Act) of the Company.

RECITALS

(a) On September 1, 2023, the Commission ordered the Members to act jointly in developing and filing with the Commission by October 23, 2023, a proposed new single national market system (''NMS'') plan to govern the public dissemination of real-time consolidated equity market data for NMS stocks. *See* Amended Order Directing the Exchanges and the Financial Industry Regulatory Authority to Submit a New National Market System Plan Regarding Consolidated Equity Market Data, Release No. 34–98271 (September 1, 2023), 88 FR 61630 (Sept. 7, 2023) (File No. 4–757) (the ''Amended Order''). This Agreement is being filed with the Commission, as directed in the Amended Order.

(b) As the Members have already formed the Company as a limited liability company pursuant to the Delaware Act by filing a certificate of formation (the ''Certificate'') with the Delaware Secretary of State, this Agreement will become effective on the date (the ''Effective Date'') when approved by the Commission pursuant to Rule 608 of Regulation NMS as an NMS plan governing the public dissemination of real-time consolidated market data for Eligible Securities.

(c) It is understood and agreed that, in performing their obligations and duties under this Agreement, the Members are performing and discharging functions and responsibilities related to the operation of the national market system for and on behalf of the Members in their capacities as self-regulatory organizations, as required under the section 11A of the Exchange Act, and pursuant to Rule 603(b) of Regulation NMS thereunder. It is further understood and agreed that this Agreement and the operations of the Company shall be subject to ongoing oversight by the Commission. No provision of this Agreement shall be construed to limit or diminish the obligations and duties of the Members as self-regulatory organizations under the federal securities laws and the regulations thereunder.

Article I.

DEFINITIONS

Section 1.1 Definitions.

As used throughout this Agreement and the Exhibits:

(1) ''*Administrator*'' means the Person selected by the Company to perform the administrative functions described in this Agreement pursuant to the Administrative Services Agreement. The Person selected as the Administrator will not be owned or controlled by a corporate entity that, either directly or via another subsidiary, offers for sale its own proprietary market data product for NMS stocks.

(2) ''*Affiliate*'' means, as to any Person, any other Person that, directly or indirectly, Controls, is Controlled by, or is under common Control with such Person. Affiliate or Affiliated, when used as an adjective, shall have a correlative meaning.

(3) ''*Agent*''means, for purposes of *Exhibit C,* agents of the Operating Committee, a Member, the Administrator, and the Processors, including, but not limited to, attorneys,

[11] 15 U.S.C. 78k–1(a)(1)(C)(iii).

[12] *See* 15 U.S.C. 78k–1(c)(1)(B).

auditors, advisors, accountants, contractors or subcontractors.

(4) ''*Applicable Law*'' means all applicable provisions of (a) constitutions, treaties, statutes, laws (including the common law), rules, regulations, decrees, ordinances, codes, proclamations, declarations or orders of any Governmental Authority; (b) any consents or approvals of any Governmental Authority; and (c) any orders, decisions, advisory or interpretative opinions, injunctions, judgments, awards, decrees of, or agreements with, any Governmental Authority.

(5) ''*Best Bid and Offer*'' has the meaning ascribed to the term ''best bid and best offer'' by Rule 600(b)(8) of Regulation NMS.

(6) ''*Capital Contributions*'' means any cash, cash equivalents, or other property that a Member contributes to the Company with respect to its Membership Interest.

(7) ''*Chair*'' shall mean the individual elected pursuant to Section 4.4(e).

(8) ''*Code*'' means the Internal Revenue Code of 1986, as amended.

(9) ''*Commission*'' or ''*SEC*'' means the U.S. Securities and Exchange Commission.

(10) ''*Company Indemnified Party*'' means a Person, and any other Person of whom such Person is the legal representative, that is or was a Member or an SRO Voting Representative.

(11) ''*Confidential Information*'' means, except to the extent covered by the definitions for Restricted Information, Highly Confidential Information, or Public Information: (i) any non-public data or information designated as Confidential by the Operating Committee pursuant to Section 4.3; (ii) any document generated by a Member and designated by that Member as Confidential; and (iii) the individual views and statements of Covered Persons and SEC staff disclosed during a meeting of the Operating Committee or any subcommittees thereunder.

(12) ''*Control*'' means, with respect to any Person, the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities (or other ownership interest), by contract or otherwise.

(13) ''*Covered Persons*'' means representatives of the Members (including the SRO Voting Representative, alternate Voting Representative, and Member Observers), members of the Advisory Committee, SRO Applicants, SRO Applicant Observers, the Administrator, and the Processors; Affiliates, employees, and Agents of the Operating Committee, a Member, the Administrator, and the Processors; and any third parties invited to attend meetings of the Operating Committee or subcommittees. Covered Persons do not include staff of the SEC.

(14) ''*CQ Plan*'' means the Restated CQ Plan.

(15) ''*CT Feeds*'' means the CT Quote Data Feed(s) and the CT Trade Data Feed(s).

(16) ''*CT Quote Data Feed(s)*'' means the service(s) that provides Vendors and Subscribers with (i) National Best Bids and Offers and their sizes and the Members' identifiers providing the National Best Bids and Offers; (ii) each Member's Best Bids and Offers and their sizes and the Member's identifier; and (iii) in the case of FINRA, the identifier of the FINRA Participant(s) that constitute(s) FINRA's Best Bids and Offers, in each case for Eligible Securities.

(17) ''*CT Trade Data Feed(s)*'' means the service(s) that provides Vendors and Subscribers with Transaction Reports for Eligible Securities.

(18) ''*CTA Plan*'' means the Second Restatement of the CTA Plan.

(19) ''*Current*'' means, with respect to Transaction Reports or Quotation Information, such Transaction Reports or Quotation Information during the fifteen (15) minute period immediately following the initial transmission thereof by the Processors.

(20) ''*Delaware Act*'' means the Delaware Limited Liability Company Act, Title 6, Chapter 18, §§ 18–101, *et seq.,* and any successor statute, as amended.

(21) ''*Distribution*'' means a distribution to the Members of revenues of the Company under this Agreement pursuant to Section 8.3 and *Exhibit D* of the Agreement.

(22) ''*Eligible Security*'' means (i) any equity security, as defined in section 3(a)(11) of the Exchange Act, or (ii) a security that trades like an equity security, in each case that is listed on a national securities exchange.

(23) ''*ET*'' means Eastern Time.

(24) ''*Exchange Act*'' means the Securities Exchange Act of 1934, as amended.

(25) ''*Executive Session*'' means a meeting of the Operating Committee pursuant to Section 4.4(g), which includes SRO Voting Representatives, Member Observers, SEC Staff, and other persons as deemed appropriate by a majority vote of the SRO Voting Representatives.

(26) ''*Extraordinary Market Activity*'' means a disruption or malfunction of any electronic quotation, communication, reporting, or execution system operated by, or linked to, the Processors or a Trading Center or a member of such Trading Center that has a severe and continuing negative impact, on a market-wide basis, on quoting, order, or trading activity or on the availability of market information necessary to maintain a fair and orderly market. For purposes of this definition, a severe and continuing negative impact on quoting, order, or trading activity includes (i) a series of quotes, orders, or transactions at prices substantially unrelated to the current market for the security or securities; (ii) duplicative or erroneous quoting, order, trade reporting, or other related message traffic between one or more Trading Centers or their members; or (iii) the unavailability of quoting, order, transaction information, or regulatory messages for a sustained period.

(27) ''*Fees*'' means fees charged to Vendors and Subscribers for Transaction Reports and Quotation Information in Eligible Securities.

(28) ''*Final Decision of the Operating Committee*'' means an action or inaction of the Operating Committee as a result of the vote of the Operating Committee, but will not include the individual votes of a Voting Representative.

(29) ''*FINRA*'' means the Financial Industry Regulatory Authority, Inc.

(30) ''*FINRA Participant*'' means a FINRA member that utilizes the facilities of FINRA pursuant to applicable FINRA rules.

(31) ''*Fiscal Year*'' means the fiscal year of the Company adopted pursuant to Section 10.1(a) of this Agreement.

(32) ''*GAAP*'' means United States generally accepted accounting principles in effect from time to time, consistently applied.

(33) ''*Governmental Authority*'' means (a) the U.S. federal government or government of any state of the U.S., (b) any instrumentality or agency of any such government, (c) any other individual, entity or organization authorized by law to perform any executive, legislative, judicial, regulatory, administrative, military or police functions of any such government, or (d) any intergovernmental organization of U.S. entities, but ''Governmental Authority'' excludes any self-regulatory organization registered with the Commission.

(34) ''*Highly Confidential Information*'' means any highly sensitive Member-specific, customer-specific, individual-specific, or otherwise sensitive information relating to the Operating Committee, Members, Vendors, Subscribers, or customers that

is not otherwise Restricted Information. Highly Confidential Information includes: the Company's contract negotiations with the Processors or Administrator; personnel matters that affect the employees of SROs or the Company; information concerning the intellectual property of Members or customers; and any document subject to the Attorney-Client Privilege, Work Product Doctrine, or any other applicable privilege or immunity.

(35) ''*Limit Up Limit Down*'' means the Plan to Address Extraordinary Market Volatility pursuant to Rule 608 of Regulation NMS under the Exchange Act.

(36) ''*Losses*'' means losses, judgments, penalties (including excise and similar taxes and punitive damages), fines, settlements, and reasonable expenses (including reasonable attorneys' fees) actually incurred by such Company Indemnified Party as a Party to a Proceeding.

(37) ''*Market*'' means (i) in respect of FINRA or a national securities association, the facilities through which FINRA Participants display quotations and report transactions in Eligible Securities to FINRA and (ii) in respect of each national securities exchange, the marketplace for Eligible Securities that such exchange operates.

(38) ''*Market-Wide Circuit Breaker*'' means a halt in trading in all stocks in all Markets under the rules of a Primary Listing Market.

(39) ''*Material SIP Latency*'' means a delay of quotation or last sale price information in one or more securities between the time data is received by the Processors and the time the Processors disseminate the data, which delay the Primary Listing Market determines, in consultation with, and in accordance with, publicly disclosed guidelines established by the Operating Committee, to be (a) material and (b) unlikely to be resolved in the near future.

(40) ''*Member Observer*'' means any employee of a Member or any attorney to a Member (other than a Voting Representative) that a Member determines is necessary in connection with such Member's compliance with its obligations under Rule 608(c) of Regulation NMS to attend Operating Committee and subcommittee meetings, provided that the designation of the Member Observer is consistent with the prohibition in Section 4.11(b)(i).

(41) ''*Membership Fee*'' means the fee to be paid by a new Member pursuant to Section 3.2.

(42) ''*Membership Interest*'' means an interest in the Company owned by a Member.

(43) ''*Nasdaq*'' means The Nasdaq Stock Market LLC.

(44) ''*National Best Bid and Offer*'' has the meaning ascribed to the term ''national best bid and national best offer'' by Rule 600(b)(43) of Regulation NMS.

(45) ''*National securities association*'' means a securities association that is registered under section 15A of the Exchange Act.

(46) ''*National securities exchange*'' means a securities exchange that is registered under section 6 of the Exchange Act.

(47) ''*Network A Security*'' means an Eligible Security for which NYSE is the Primary Listing Market.

(48) ''*Network B Security*'' means an Eligible Security for which a national securities exchange other than NYSE or Nasdaq is the Primary Listing Market.

(49) ''*Network C Security*'' means an Eligible Security for which Nasdaq is the Primary Listing Market.

(50) ''*Non-Affiliated SRO*'' means a Member that is not affiliated with any other Member.

(51) ''*NYSE*'' means the New York Stock Exchange LLC.

(52) ''*Officer*'' means each individual designated as an officer of the Company pursuant to Section 4.8.

(53) ''*Operating Committee*'' means the committee established under Article IV of this Agreement, each member of which shall be deemed a ''manager'' (as defined in the Delaware Act) and shall be referred to herein as a Voting Representative.

(54) ''*Operational Halt*'' means a halt in trading in one or more securities only on a Member's Market declared by such Member and is not a Regulatory Halt.

(55) ''*Operative Date*'' means the date that (i) the Members conduct, through the Company, the Processor and Administrator functions related to the public dissemination of real-time consolidated equity market data for Eligible Securities required by the Commission to be performed by the Members under the Exchange Act and (ii) the CQ Plan, CTA Plan, and UTP Plan cease their operations.

(56) ''*Party to a Proceeding*'' means a Company Indemnified Party that is, was, or is threatened to be made, a party to a Proceeding, or is involved in a Proceeding, by reason of the fact that such Company Indemnified Party is or was a Member, or an SRO Voting Representative.

(57) ''*PDP*'' means a Member or non-Member's proprietary market data product that includes Transaction Reports and Quotation Information data in Eligible Securities from a Member's Market or a Trading Center, and if from a Member, is filed with the Commission.

(58) ''*Person*'' means an individual, corporation, partnership, joint venture, limited liability company, Governmental Authority, unincorporated organization, trust, association, or other entity.

(59) ''*Primary Listing Market*'' means the national securities exchange on which an Eligible Security is listed. If an Eligible Security is listed on more than one national securities exchange, Primary Listing Market means the exchange on which the security has been listed the longest.

(60) ''*Proceeding*'' means any threatened, pending or completed suit, proceeding, or other action, whether civil, criminal, administrative, or arbitrative, or any appeal in such action or any inquiry or investigation that could lead to such an action.

(61) ''*Processor(s)*'' means the entity(ies) selected by the Company to perform the processing functions described in this Agreement and pursuant to the Processor Services Agreement(s), including the operation of the System.

(62) ''*Public Information*'' means: (i) any information that is not either Restricted Information or Highly Confidential Information or that has not been designated as Confidential Information; (ii) any Confidential Information that has been approved by the Operating Committee for release to the public; (iii) the duly approved minutes of the Operating Committee with detail sufficient to inform the public on matters under discussion and the views expressed thereon (without attribution); (iv) Vendor, Subscriber and performance metrics; (v) Processor transmission metrics; and (vi) any information that is otherwise publicly available, except for information made public as a result of a violation of the Company's Confidentiality Policy or Applicable Law. Public Information includes, but is not limited to, any topic discussed during a meeting of the Operating Committee, an outcome of a topic discussed, or a Final Decision of the Operating Committee.

(63) ''*Regulatory Halt*'' means a halt declared by the Primary Listing Market in trading in one or more securities on all Trading Centers for regulatory purposes, including for the dissemination of material news, news pending, suspensions, or where otherwise necessary to maintain a fair and orderly market. A Regulatory Halt includes a trading pause triggered by Limit Up Limit Down, a halt based on Extraordinary Market Activity, a trading

halt triggered by a Market-Wide Circuit Breaker, and a SIP Halt.

(64) ''*Restricted Information*'' means highly sensitive customer-specific financial information, customer-specific audit information, other customer financial information, and personal identifiable information.

(65) ''*Quotation Information*'' means all bids, offers, displayed quotation sizes, market center identifiers and, in the case of FINRA, the identifier of the FINRA Participant that entered the quotation, all withdrawals, and all other information pertaining to quotations in Eligible Securities required to be collected and made available to the Processors pursuant to this Agreement.

(66) ''*Regular Trading Hours*'' has the meaning provided in Rule 600(b)(68) of Regulation NMS. Regular Trading Hours can end earlier than 4:00 p.m. ET in the case of an early scheduled close.

(67) ''*Retail Representative*'' means an individual who (1) represents the interests of retail investors, (2) has experience working with or on behalf of retail investors, (3) has the requisite background and professional experience to understand the interests of retail investors, the work of the Operating Committee of the Company, and the role of market data in the U.S. equity market, and (4) is not affiliated with a Member or broker-dealer.

(68) ''*Self-regulatory organization*'' or ''*SRO*'' has the meaning provided in section 3(a)(26) of the Exchange Act.

(69) ''*SIP Halt*'' means a Regulatory Halt to trading in one or more securities that a Primary Listing Market declares in the event of a SIP Outage or Material SIP Latency.

(70) ''*SIP Halt Resume Time*'' means the time that the Primary Listing Market determines as the end of a SIP Halt.

(71) ''*SIP Outage*'' means a situation in which a Processor has ceased, or anticipates being unable, to provide updated and/or accurate quotation or last sale price information in one or more securities for a material period that exceeds the time thresholds for an orderly failover to backup facilities established by mutual agreement among the Processors, the Primary Listing Market for the affected securities, and the Operating Committee unless the Primary Listing Market, in consultation with the affected Processor and the Operating Committee, determines that resumption of accurate data is expected in the near future.

(72) ''*SRO Applicant*'' means (1) any Person that is not a Member and for which the Commission has published a Form 1 to be registered as a national securities exchange or national securities association to operate a Market, or (2) a national securities exchange that is not a Member and for which the Commission has published a proposed rules change to operate a Market.

(73) ''*SRO Group*'' means a group of Members that are Affiliates.

(74) ''*Subscriber*'' means a Person that receives Current Transaction Reports or Quotation Information from the Processors or a Vendor and that itself is not a Vendor.

(75) ''*System*'' means all data processing equipment, software, communications facilities, and other technology and facilities, utilized by the Company or the Processors in connection with the collection, consolidation, and dissemination of Transaction Reports, Quotation Information, and other information concerning Eligible Securities.

(76) ''*Taxes*'' means taxes, levies, imposts, charges, and duties (including withholding tax, stamp, and transaction duties) imposed by any taxing authority together with any related interest, penalties, fines, and expenses in connection with them.

(77) ''*Trading Center*'' has the same meaning as that term is defined in Rule 600(b)(82) of Regulation NMS.

(78) ''*Transaction Reports*'' means reports required to be collected and made available pursuant to this Agreement containing the stock symbol, price, and size of the transaction executed, the Market in which the transaction was executed, and related information, including a buy/sell/cross indicator, trade modifiers, and any other required information reflecting completed transactions in Eligible Securities.

(79) ''*Transfer*'' means to directly sell, transfer, assign, pledge, encumber, hypothecate, or similarly dispose of, either voluntarily or involuntarily, by operation of law or otherwise, or to enter into any contract, option, or other arrangement or understanding with respect to the sale, transfer, assignment, pledge, encumbrance, hypothecation, or similar disposition of any Membership Interests owned by a Person or any interest (including a beneficial interest) in any Membership Interests owned by a Person. ''Transfer'' when used as a noun shall have a correlative meaning.

(80) ''*UTP Plan*'' means the Joint Self-Regulatory Organization Plan Governing the Collection, Consolidation and Dissemination of Quotation and Transaction Information for Nasdaq-Listed Securities Traded on Exchanges on an Unlisted Trading Privileges Basis.

(81) ''*Vendor*'' means a Person that the Administrator has approved to re-distribute Current Transaction Reports or Quotation Information to the Person's employees or to others.

(82) ''*Voting Representative*'' means an individual designated by each SRO Group and each Non-Affiliated SRO pursuant to Section 4.2(a) to vote on behalf of such SRO Group or such Non-Affiliated SRO.

Section 1.2 Interpretation.

For purposes of this Agreement: (a) the words ''include,'' ''includes,'' and ''including'' shall be deemed to be followed by the words ''without limitation''; (b) the word ''or'' is not exclusive; and (c) the words ''herein,'' ''hereof,'' ''hereby,'' ''hereto,'' and ''hereunder'' refer to this Agreement as a whole. The definitions given for any defined terms in this Agreement shall apply equally to both the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine, and neuter forms. Unless the context otherwise requires, references herein: (x) to Articles, Sections, and Exhibits mean the Articles and Sections of, and Exhibits attached to, this Agreement; (y) to an agreement, instrument, or other document mean such agreement, instrument, or other document as amended, supplemented, and modified from time to time to the extent permitted by the provisions thereof; and (z) to a statute mean such statute as amended from time to time and includes any successor legislation thereto and any rules and regulations promulgated thereunder. This Agreement shall be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument or causing any instrument to be drafted. The Exhibits referred to herein shall be construed with, and as an integral part of, this Agreement to the same extent as if they were set forth verbatim herein.

Article II.

ORGANIZATION

Section 2.1 Formation.

(a) The Members formed the Company as a limited liability company on [•], [•] pursuant to the Delaware Act by filing a certificate of formation (the ''*Certificate*'') with the Delaware Secretary of State.

(b) This Agreement shall constitute the ''limited liability company agreement'' (as that term is used in the Delaware Act) of the Company. The rights, powers, duties, obligations, and liabilities of the Members shall be determined pursuant to the Delaware Act and this Agreement. To the extent

that the rights, powers, duties, obligations, and liabilities of any Member are different by reason of any provision of this Agreement than they would be under the Delaware Act in the absence of such provision, this Agreement shall, to the extent permitted by the Delaware Act, control.

Section 2.2 Name.

The name of the Company is ''CT Plan LLC'' and all Company business shall be conducted in that name or such other name or names as the Operating Committee may designate; *provided,* that the name shall always contain the words ''Limited Liability Company'' or the abbreviation ''L.L.C.'' or the designation ''LLC.''

Section 2.3 Registered Office; Registered Agent; Principal Office; Other Offices.

(a) The registered office of the Company required by the Delaware Act to be maintained in the State of Delaware shall be the office of the initial registered agent named in the Certificate or such other office (which need not be a place of business of the Company) as the Operating Committee may designate from time to time in the manner provided by the Delaware Act and Applicable Law.

(b) The registered agent for service of process of the Company in the State of Delaware shall be the initial registered agent named in the Certificate or such other Person or Persons as the Operating Committee may designate from time to time in the manner provided by the Delaware Act and Applicable Law.

(c) The principal office of the Company shall be located at such place as the Operating Committee may designate from time to time, which need not be in the State of Delaware, and the Company shall maintain its books and records there. The Company shall give prompt notice to each of the Members of any change to the principal office of the Company.

(d) The Company may have such other offices as the Operating Committee may designate from time to time.

Section 2.4 Purpose; Powers.

(a) The purposes of the Company are to engage in the following activities on behalf of the Members:

(i) the collection, consolidation, and dissemination of Transaction Reports, Quotation Information, and such other information concerning Eligible Securities as the Members shall agree as provided herein;

(ii) contracting for the distribution of such information;

(iii) contracting for and maintaining facilities to support any activities permitted in this Agreement and guidelines adopted hereunder, including the operation and administration of the System;

(iv) providing for those other matters set forth in this Agreement and in all guidelines adopted hereunder;

(v) operating the System to comply with Applicable Laws; and

(vi) engaging in any other business or activity that now or hereafter may be necessary, incidental, proper, advisable, or convenient to accomplish any of the foregoing purposes and that is not prohibited by the Delaware Act, the Exchange Act, or other Applicable Law.

(b) The Company shall have all the powers necessary or convenient to carry out the purposes for which it is formed, including the powers granted by the Delaware Act.

(c) It is expressly understood that each Member shall be responsible for the collection of Transaction Reports and Quotation Information within its Market and that nothing in this Agreement shall be deemed to govern or apply to the manner in which each Member does so.

Section 2.5 Term.

The term of the Company commenced as of the date the Certificate was filed with the Secretary of State of the State of Delaware, and shall continue in existence perpetually until the Company is dissolved in accordance with the provisions of the Certificate or this Agreement. Notwithstanding the foregoing, this Agreement shall not become effective until the Effective Date.

Section 2.6 No State-Law Partnership.

The Members intend that the Company not be a partnership (including a limited partnership) or joint venture, and that no Member be a partner or joint venturer of any other Member by virtue of this Agreement for any purposes other than as set forth in Sections 10.2 and 10.3, and neither this Agreement nor any other document entered into by the Company or any Member relating to the subject matter of this Agreement shall be construed to suggest otherwise.

Article III.

MEMBERSHIP

Section 3.1 Members.

The Members of the Company shall consist of the Persons identified in *Exhibit A,* as updated from time to time to reflect the admission of new Members pursuant to this Agreement.

Section 3.2 New Members.

(a) Any national securities association or national securities exchange whose market, facilities, or members, as applicable, trades Eligible Securities may become a Member by (i) providing written notice to the Company, (ii) executing a joinder to this Agreement, at which time *Exhibit A* shall be amended to reflect the addition of such association or exchange as a Member, (iii) paying a Membership Fee to the Company as determined pursuant to Section 3.2(b), and (iv) executing a joinder to any other agreements to which all of the other Members have been made party in connection with being a Member. Membership Fees paid shall be added to the general revenues of the Company.

(b) The Membership Fee shall be based upon the following factors:

(i) the portion of costs previously paid by the Company (or by the Members prior to the formation of the Company) for the development, expansion, and maintenance of the System which, under GAAP, would have been treated as capital expenditures and would have been amortized over the five years preceding the admission of the new Member (and for this purpose all such capital expenditures shall be deemed to have a five-year amortizable life); and

(ii) an assessment of costs incurred and to be incurred by the Company for modifying the System or any part thereof to accommodate the new Member, which are not otherwise required to be paid or reimbursed by the new Member.

(c) Participants of the CQ Plan, CTA Plan, and UTP Plan will not be required to pay the Membership Fee.

Section 3.3 Transfer of Membership Interests.

Except as set forth in Section 3.4, a Member shall not have the right to Transfer (whether in whole or in part) its Membership Interest in the Company.

Section 3.4 Withdrawal from Membership.

(a) Any Member may voluntarily withdraw from the Company at any time on not less than 30 days' prior written notice (the ''Withdrawal Date''), by (i) providing such notice of such withdrawal to the Company, (ii) causing the Company to file with the Commission an amendment to effectuate the withdrawal and (iii) Transferring such Member's Membership Interest to the Company.

(b) A Member shall automatically be withdrawn from the Company upon

such Member no longer being a registered national securities association or registered national securities exchange. Such Member's Membership Interest will automatically transfer to the Company. The Company shall file with the Commission an amendment to effectuate the withdrawal.

(c) A withdrawal of a Member shall not be effective until approved by the Commission after filing an amendment to the Agreement in accordance with Section 13.5.

(d) From and after the Withdrawal Date of such Member:

(i) Such Member shall remain liable for any obligations under this Agreement of such Member (including indemnification obligations) arising prior to the Withdrawal Date (but such Member shall have no further obligations under this Agreement or to any of the other Members arising after the Withdrawal Date);

(ii) Such Member shall be entitled to receive a portion of the Net Distributable Operating Income (if any) in accordance with *Exhibit D* attributable to the period prior to the Withdrawal Date of such Member;

(iii) Such Member shall cease to have the right to have its Transaction Reports, Quotation Information, or other information disseminated over the System; and

(iv) Profits and losses of the Company shall cease to be allocated to the Capital Account of such Member.

Section 3.5 Member Bankruptcy.

In the event a Member becomes subject to one or more of the events of bankruptcy enumerated in Section 18–304 of the Delaware Act, that event by itself shall not cause a withdrawal of such Member from the Company so long as such Member continues to be a national securities association or national securities exchange.

Section 3.6 Undertaking by All Members.

Following the Operative Date, each Member shall be required, pursuant to Rule 608(c) of Regulation NMS, to comply with the provisions hereof and enforce compliance by its members with the provisions hereof.

Section 3.7 Obligations and Liability of Members.

(a) Except as otherwise provided in this Agreement or Applicable Law, no Member shall be obligated to contribute capital or make loans to the Company.

(b) Except as provided in this Agreement or Applicable Law, no Member shall have any liability whatsoever in its capacity as a Member, whether to the Company, to any of the Members, to the creditors of the Company or to any other Person, for the debts, liabilities, commitments or any other obligations of the Company or for any losses of the Company. Notwithstanding the foregoing, to the extent that amounts have not been paid to the Processors or Administrator under the terms of the Processor Services Agreements and Administrative Services Agreement, respectively, or this Agreement, as and when due, (i) each Member shall be obligated to return to the Company its pro rata share of any moneys distributed to such Member in the one year period prior to such default in payment (such pro rata share to be based upon such Member's proportionate receipt of the aggregate distributions made to all Members in such one year period) until an aggregate amount equal to the amount of any such defaulted payments has been re-contributed to the Company and (ii) the Company shall promptly pay such amount to the Processors or Administrator, as applicable.

(c) In accordance with the Delaware Act, a member of a limited liability company may, under certain circumstances, be required to return amounts previously distributed to such member. It is the intent of the Members that no distribution to any Member pursuant to this Agreement shall be deemed a return of money or other property paid or distributed in violation of the Delaware Act. The payment of any such money or distribution of any such property to a Member shall be deemed to be a compromise within the meaning of the Delaware Act, and the Member receiving any such money or property shall not be required to return any such money or property to any Person; *provided, however,* that a Member shall be required to return to the Company any money or property distributed to it in clear and manifest accounting or similar error or as otherwise provided in Section 3.7(b). However, if any court of competent jurisdiction holds that, notwithstanding the provisions of this Agreement, any Member is obligated to make any such payment, such obligation shall be the obligation of such Member and not of the Operating Committee.

(d) No Member (unless duly authorized by the Operating Committee) has the authority or power to represent, act for, sign for or bind the Company or to make any expenditure on behalf of the Company; *provided, however,* that the Tax Matters Partner may represent, act for, sign for or bind the Company as permitted under Sections 10.2 and 10.3 of this Agreement.

(e) To the fullest extent permitted by law, no Member shall, in its capacity as a Member, owe any duty (fiduciary or otherwise) to the Company or to any other Member other than the duties expressly set forth in this Agreement.

Article IV.

MANAGEMENT OF THE COMPANY

Section 4.1 Operating Committee.

(f) Except for situations in which the approval of the Members is required by this Agreement, the Company shall be managed by the Operating Committee. Unless otherwise expressly provided to the contrary in this Agreement, no Member shall have authority to act for, or to assume any obligation or responsibility on behalf of, the Company, without the prior approval of the Operating Committee. Without limiting the generality of the foregoing and except as otherwise expressly provided in this Agreement, the Operating Committee shall have full and complete discretion to manage and control the business and affairs of the Company, to make all decisions affecting the business and affairs of the Company, and to take all such actions as it deems necessary or appropriate to accomplish the purposes of the Company, including the following:

(i) proposing amendments to this Agreement or implementing other policies and procedures as necessary to ensure prompt, accurate, reliable, and fair collection, processing, distribution, and publication of information with respect to Transaction Reports and Quotation Information in Eligible Securities and the fairness and usefulness of the form and content of that information;

(ii) selecting, overseeing, specifying the role and responsibilities of, and evaluating the performance of, the Administrator, the Processors, an auditor, and other professional service providers, provided that any expenditures for professional services that are paid for from the Company's revenues must be for activities consistent with the terms of this Agreement and must be authorized by the Operating Committee;

(iii) developing and maintaining fair and reasonable Fees and consistent terms for the distribution, transmission, and aggregation of Transaction Reports and Quotation Information in Eligible Securities;

(iv) reviewing the performance of the Processors and ensuring the public reporting of Processors' performance and other metrics and information about the Processors;

(v) assessing the marketplace for equity market data products and ensuring that the CT Feeds are priced in a manner that is fair and reasonable, and designed to ensure the widespread availability of CT Feeds data to investors and market participants;

(vi) designing a fair and reasonable revenue allocation formula for allocating plan revenues to be applied by the Administrator, and overseeing, reviewing, and revising that formula as needed;

(vii) interpreting the Agreement and its provisions; and

(viii) carrying out such other specific responsibilities as provided under this Agreement.

(g) The Operating Committee may delegate all or part of its administrative functions under this Agreement, excluding those administrative functions to be performed by the Administrator pursuant to Section 6.1, to a subcommittee, to one or more of the Members, or to other Persons (including the Administrator), and any Person to which administrative functions are so delegated shall perform the same as agent for the Company, in the name of the Company. For the avoidance of doubt, no delegation to a subcommittee shall contravene Section 4.3 and no subcommittee shall take actions requiring approval of the Operating Committee pursuant to Section 4.3 unless such approval shall have been obtained. Any authority delegated hereunder is subject to the provisions of Section 4.3 hereof.

(h) It is expressly agreed and understood that neither the Company nor the Operating Committee shall have authority in any respect of any Member's proprietary systems. Neither the Company nor the Operating Committee shall have any authority over the collection and dissemination of quotation or transaction information in Eligible Securities in any Member's Market, or, in the case of FINRA, from FINRA Participants.

Section 4.2 Composition and Selection of Operating Committee.

(a) *Voting Representatives.* The Operating Committee shall include one Voting Representative designated by each SRO Group and each Non-Affiliated SRO to vote on behalf of such SRO Group or such Non-Affiliated SRO. Each SRO Group and each Non-Affiliated SRO may designate an alternate individual or individuals who shall be authorized to vote on behalf of such SRO Group or such Non-Affiliated SRO, respectively, in the absence of the designated Voting Representative.

(b) An SRO Applicant will be permitted to appoint one individual to attend (subject to Section 4.4(i)) regularly scheduled Operating Committee meetings in the capacity of a non-voting observer (each, an ''*SRO Applicant Observer*''). Each SRO Applicant may designate an alternate individual or individuals who shall be authorized to act as the SRO Applicant Observer on behalf of the SRO Applicant in the absence of the designated SRO Applicant Observer. If the SRO Applicant's Form 1 petition or Section 19(b)(1) filing is withdrawn, returned, or is otherwise not actively pending with the Commission for any reason, then the SRO Applicant will no longer be eligible to have an SRO Applicant Observer attend Operating Committee meetings.

(c) Notwithstanding anything to the contrary herein, (i) a national securities exchange that has ceased operations as a Market (or has yet to commence operation as a Market) and that is a Non-Affiliated SRO will not be permitted to designate a Voting Representative and (ii) an SRO Group in which all national securities exchanges have ceased operations as a Market (or have yet to commence operation as a Market) will not be permitted to designate a Voting Representative. Such SRO Group or Non-Affiliated SRO may attend the Operating Committee as an observer but may not attend the Executive Session of the Operating Committee. In the event such an SRO Group or Non-Affiliated SRO does not commence operation as a Market for six months after first attending an Operating Committee meeting, such SRO Group or Non-Affiliated SRO may no longer attend the Operating Committee until it commences/re-commences operation as a Market.

Section 4.3 Action of Operating Committee.

(a) Each Voting Representative shall be authorized to cast one vote on behalf of the SRO Group or Non-Affiliated SRO that he or she represents, *provided, however,* that each Voting Representative representing an SRO Group or Non-Affiliated SRO whose combined market center(s) have consolidated equity market share of more than fifteen (15) percent during four of the six calendar months preceding an Operating Committee vote shall be authorized to cast two votes. For purposes of this Section 4.3(a), ''consolidated equity market share'' means the average daily dollar equity trading volume of Eligible Securities of an SRO Group or Non-Affiliated SRO as a percentage of the average daily dollar equity trading volume of all of the SRO Groups and Non-Affiliated SROs, as reported under this Agreement or under the CQ, CTA, and UTP Plans. For the avoidance of doubt, FINRA shall not be considered to operate a market center within the meaning of this Section 4.3(a) solely by virtue of facilitating quoting on the FINRA Alternative Display Facility or trade reporting of Eligible Securities through the FINRA/Nasdaq Trade Reporting Facility Carteret, the FINRA/Nasdaq Trade Reporting Facility Chicago, the FINRA/NYSE Trade Reporting Facility, or any other trade reporting facility that FINRA may operate from time to time in affiliation with a registered national securities exchange to provide a mechanism for FINRA Participants to report transactions in Eligible Securities effected otherwise than on an exchange.

(b) All actions of the Operating Committee will require an affirmative vote of not less than (2/3rd) two-thirds of all votes allocated in the manner described in Section 4.3(a) to Voting Representatives who are eligible to vote on such action.

(c) Notwithstanding Section 4.3(b), the following actions will require only a majority vote of the Operating Committee:

(i) the selection of members of the Advisory Committee pursuant to Section 4.7;

(ii) the decision to enter Executive Session pursuant to Section 4.4(g), except for matters considered pursuant to Section 4.4(g)(i)(E);

(iii) the decision to discuss a matter in a legal subcommittee pursuant to Section 4.8(d); and

(iv) decisions concerning the operation of the Company as an LLC as specified in Section 10.3 and Section 11.2.

Section 4.4 Meetings of the Operating Committee.

(a) Subject to Section 4.4(g), meetings of the Operating Committee may be attended by each Voting Representative, Member Observers, SRO Applicant Observers, Advisory Committee members, SEC staff, and other persons as deemed appropriate by the Operating Committee. Meetings shall be held at such times and locations as shall from time to time be determined by the Operating Committee. Member Observers shall be entitled to attend and participate in any discussion at any such meeting, unless attendance or participation would be inconsistent with the provisions of Section 4.11(b), but shall not be entitled to vote on any matter.

(b) Special meetings of the Operating Committee may be called by the Chair on at least 24 hours' notice to each Voting Representative and all persons eligible to attend Operating Committee meetings.

(c) Any action requiring a vote can be taken at a meeting only if a quorum of all Voting Representatives is present. A quorum is equal to the minimum votes necessary to obtain approval under Section 4.3(b), *i.e.,* Voting Representatives reflecting 2/3rd of Operating Committee votes eligible to vote on such action.

(i) Any Voting Representative recused from voting on a particular action (i) mandatorily pursuant to Section 4.10(b) or (ii) upon a Voting Representative's voluntary recusal, shall not be considered in the numerator or denominator of the calculations in paragraph (c) for determining whether a quorum is present.

(ii) A Voting Representative is considered present at a meeting only if such Voting Representative is either in physical attendance at the meeting or participating by conference telephone or other electronic means that enables each Voting Representative to hear and be heard by all others present at the meeting.

(d) A summary of any action sought to be resolved at a meeting shall be sent to each Voting Representative entitled to vote on such matter at least one week prior to the meeting via electronic mail, portal notification, or regular U.S. or private mail (or if one week is not practicable, then with as much time as may be reasonably practicable under the circumstances); *provided, however,* that this requirement to provide a summary of any action prior to a meeting may be waived by the vote of the percentage of the Committee required to vote on any particular matter, under Section 4.3 above.

(e) Beginning with the first quarterly meeting of the Operating Committee following the Operative Date, the Chair of the Operating Committee shall be elected for a one-year term from the constituent Voting Representatives (and an election for the Chair shall be held every year). Subject to the requirements of Section 4.3 hereof, the Chair shall have the authority to enter into contracts on behalf of the Company and otherwise bind the Company, but only as directed by the Operating Committee. The Chair shall designate a Person to act as Secretary to record the minutes of each meeting. The location of meetings shall be in a location capable of holding the number of attendees of such meetings, or such other locations as may from time to time be determined by the Operating Committee.

(i) To elect a Chair, the Operating Committee will elicit nominations for those individuals to be considered for Chair.

(ii) In the event that no nominated Person is elected by an affirmative vote of the Operating Committee pursuant to Section 4.3, the Person(s) with the lowest number of votes will be eliminated from consideration. The Operating Committee will repeat this process until a Person is elected by affirmative vote of the Operating Committee pursuant to Section 4.3. In the event two candidates remain and neither is elected by an affirmative vote of the Operating Committee pursuant to Section 4.3, the Person receiving the most votes from Voting Representatives will be elected.

(f) Meetings may be held by conference telephone or other electronic means that enables each Voting Representative to hear and be heard by all others present at the meeting.

(g) Voting Representatives, Member Observers, SEC Staff, and other persons as deemed appropriate by a majority vote of the Voting Representatives may meet in Executive Session of the Operating Committee to discuss an item of business that falls within the topics identified in subsection (i) below and for which it is appropriate to exclude the Advisory Committee. A request to create an Executive Session must be included on the written agenda for an Operating Committee meeting, along with the clearly stated rationale as to why such item to be discussed would be appropriate for Executive Session. The creation of an Executive Session will be by a majority vote of Voting Representatives with votes allocated pursuant to Section 4.3(a)(1). The Executive Session shall only discuss the topic for which it was created and shall be disbanded upon fully discussing the topic.

(i) Items for discussion within an Executive Session should be limited to the following topics as:

(A) Any topic that requires discussion of Highly Confidential Information;

(B) Vendor or Subscriber Audit Findings;

(C) Litigation matters;

(D) Responses to regulators with respect to inquiries, examinations, or findings; and

(E) Other discrete matters approved by the Operating Committee.

(ii) The mere fact that a topic is controversial or a matter of dispute does not, by itself, make a topic appropriate for Executive Session. The minutes for an Executive Session shall include the reason for including any item in Executive Session.

(iii) Requests to discuss a topic in Executive Session must be included on the written agenda for the Operating Committee meeting, along with the clearly stated rationale for each topic as to why such discussion is appropriate for Executive Session. Such rationale may be that the topic to be discussed falls within the list provided in subparagraph (g)(i).

Section 4.5 Certain Transactions.

The fact that a Member or any of its Affiliates is directly or indirectly interested in or connected with any Person employed by the Company to render or perform a service, or from which or to whom the Company may buy or sell any property, shall not prohibit the Company from employing or dealing with such Person.

Section 4.6 Company Opportunities.

(a) Each Member, its Affiliates, and each of their respective equity holders, controlling persons and employees may have business interests and engage in business activities in addition to those relating to the Company. Neither the Company nor any Member shall have any rights by virtue of this Agreement in any business ventures of any such Person.

(b) Each Member expressly acknowledges that (i) the other Members are permitted to have, and may presently or in the future have, investments or other business relationships with Persons engaged in the business of the Company other than through the Company (an ''*Other Business*''), (ii) the other Members have and may develop strategic relationships with businesses that are and may be competitive or complementary with the Company, (iii) the other Members shall not be obligated to recommend or take any action that prefers the interests of the Company or any Member over its own interests, (iv) none of the other Members will be prohibited by virtue of their ownership of equity in the Company or service on the Operating Committee (or body performing similar duties) from pursuing and engaging in any such activities, (v) none of the other Members will be obligated to inform or present to the Company any such opportunity, relationship, or investment, (vi) such Member will not acquire or be entitled to any interest or participation in any Other Business as a result of the participation therein of any of the other Members, and (vii) the involvement of another Member in any Other Business in and of itself will not constitute a conflict of interest by such

Person with respect to the Company or any of the Members.

Section 4.7 Advisory Committee.

(a) *Formation.* Notwithstanding any other provision of this Plan, an Advisory Committee to the Plan shall be formed and shall function in accordance with the provisions set forth in this section.

(b) *Composition.* Members of the Advisory Committee shall be selected for two year terms as follows:

(i) Operating Committee Selections. By affirmative vote of a majority of the Members entitled to vote, the Operating Committee shall select at least one representative from each of the following categories to be members of the Advisory Committee: (A) an institutional investor; (B) a broker-dealer with a predominantly retail investor customer base; (C) a broker-dealer with a predominantly institutional investor customer base; (D) a securities market data vendor that is not affiliated or associated with a Member, broker-dealer, or investment adviser with third-party clients; (E) an issuer of NMS stock that is not affiliated or associated with a Member, broker-dealer, or investment adviser with third-party clients; and (F) a Retail Representative. The Operating Committee shall not select any person employed by or affiliated with any Member or its affiliates or facilities.

(ii) Member Selections. Each Member shall have the right to select one member of the Advisory Committee. A Member shall not select any person employed by or affiliated with any Member or its affiliates or facilities.

(c) *Function.* Members of the Advisory Committee shall have the right to submit their views to the Operating Committee on Plan matters, prior to a decision by the Operating Committee on such matters. Such matters shall include, but not be limited to, any new or modified product, fee, contract, or pilot program that is offered or used pursuant to the Plan.

(d) *Not Members of the Company.* For the sake of clarity, members of the Advisory Committee are not Members of the Company.

Section 4.8 Subcommittees.

(a) Subject to Section 4.1, the Operating Committee shall have the power and right, but not the obligation, to create and disband subcommittees of the Operating Committee and to determine the duties, responsibilities, powers, and composition of such subcommittees. Subcommittee chairs will be selected by the Operating Committee from Voting Representatives. Notwithstanding the foregoing, the Operating Committee may not delegate to a subcommittee those administrative functions to be performed by the Administrator.

(b) Except as provided in Section 4.8(d), the Secretary or designee shall prepare minutes of all subcommittee meetings and such minutes will be made available to the Operating Committee and members of the Advisory Committee.

(c) Voting Representatives, the Advisory Committee, Member Observers, SEC Staff, and other persons as deemed appropriate by the Operating Committee may attend meetings of any subcommittees.

(d) Notwithstanding paragraph (c), Voting Representatives, Member Observers, and other persons as deemed appropriate by majority vote of the Voting Representatives may meet in a subcommittee to discuss an item that exclusively affects the Members with respect to: (1) litigation matters or responses to regulators with respect to inquiries, examinations, or findings; and (2) other discrete legal matters approved by the Operating Committee. The Secretary shall prepare the minutes of such subcommittee's meetings, and such minutes shall include, (i) attendance at the meeting; (ii) the subject matter of each item discussed; (iii) sufficient non-privileged information to identify the rationale for referring the matter to the legal subcommittee, and (iv) the privilege or privileges claimed with respect to that item. Such minutes will be made available only to the Voting Representatives, Member Observers, and other persons deemed appropriate by a majority vote of the Operating Committee.

Section 4.9 Officers.

(a) Except as provided in Section 4.4(e), the Operating Committee may (but need not), from time to time, designate and appoint one or more persons as an Officer of the Company. Other than the Chair, no Officer need be a Voting Representative. Any Officers so designated shall have such authority and perform such duties as the Operating Committee may, from time to time, delegate to them. Any such delegation may be revoked at any time by the Operating Committee. The Operating Committee may assign titles to particular Officers. Each Officer shall hold office until such Officer's successor shall be duly designated or until such Officer's death, resignation, or removal as provided in this Agreement. Any number of offices may be held by the same individual. Officers shall not be entitled to receive salary or other compensation, unless approved by the Operating Committee.

(b) Any Officer may resign at any time. Such resignation shall be made in writing and shall take effect at the time specified in the notice, or if no time be specified, at the time of its receipt by the Operating Committee. The acceptance of a resignation shall not be necessary to make it effective.

(c) Any Officer may be removed at any time upon the majority vote of the Members.

Section 4.10 Commission Access to Information and Records.

Nothing in this Agreement shall be interpreted to limit or impede the rights of the Commission or SEC staff to access information and records of the Company or any of the Members (including their employees) pursuant to U.S. federal securities laws and the rules and regulations promulgated thereunder.

Section 4.11 Disclosure of Potential Conflicts of Interest; Recusal.

(a) *Disclosure Requirements.* The Members (including any Member Observers), the Processors, the Administrator, and each service provider or subcontractor engaged in Company business (including the audit of Subscribers' data usage) that has access to Restricted or Highly Confidential information (for purposes of this section, ''*Disclosing Parties*'') shall complete the applicable questionnaire to provide the required disclosures set forth in subsection (c) below to disclose all material facts necessary to identify potential conflicts of interest. The Operating Committee, a Member, Processors, or Administrator may not use a service provider or subcontractor on Company business unless that service provider or subcontractor has agreed in writing to provide the disclosures required by this section and has submitted completed disclosures to the Administrator prior to starting work. If state laws, rules, or regulations, or applicable professional ethics rules or standards of conduct, would act to restrict or prohibit a Disclosing Party from making any particular required disclosure, a Disclosing Party shall refer to such law, rule, regulation, or professional ethics rule or standard and include in response to that disclosure the basis for its inability to provide a complete response. This does not relieve the Disclosing Party from disclosing any information it is not restricted from providing.

(i) A potential conflict of interest may exist when personal, business, financial,

or employment relationships could be perceived by a reasonable objective observer to affect the ability of a person to be impartial.

(ii) Updates to Disclosures. Following a material change in the information disclosed pursuant to Section 4.11(a), a Disclosing Party shall promptly update its disclosures. Additionally, a Disclosing Party shall update annually any inaccurate information prior to the Operating Committee's first quarterly meeting of a calendar year.

(iii) Public Dissemination of Disclosures. The Disclosing Parties shall provide the Administrator with its disclosures and any required updates. The Administrator shall ensure that the disclosures are promptly posted to the Company's website.

(iv) The Company will arrange for Disclosing Parties that are not Members or members of the Advisory Committee to comply with the required disclosures and recusals under this Section 4.11 and *Exhibit B* in their respective agreements with either the Company, a Member, the Administrator, or the Processors.

(b) Recusal.

(i) A Disclosing Party that is a Member may not appoint as its Voting Representative, alternate Voting Representative, or a Member Observer a person that is responsible for or involved with the procurement for, or development, modeling, pricing, licensing (including all functions related to monitoring or ensuring a subscriber's compliance with the terms of the license contained in its data subscription agreement and all functions relating to the auditing of subscriber data usage and payment), or sale of PDP offered to customers of the CT Feeds if the person has a financial interest (including compensation) that is tied directly to the Disclosing Party's market data business or the procurement of market data and if that compensation would cause a reasonable objective observer to expect the compensation to affect the impartiality of the representative.

(ii) A Disclosing Party (including its representative(s), employees, and agents) will be recused from participating in Company activities if it has not submitted a required disclosure form or the Operating Committee votes that its disclosure form is materially deficient. The recusal will be in effect until the Disclosing Party submits a sufficiently complete disclosure form to the Administrator.

(iii) A Disclosing Party, including its representative(s), and its Affiliates and their representative(s), are recused from voting on matters in which it or its Affiliate (i) is seeking a position or contract with the Company or (ii) have a position or contract with the Company and whose performance is being evaluated by the Company.

(iv) All recusals, including a person's determination of whether to voluntarily recuse himself or herself, shall be reflected in the meeting minutes.

(c) *Required Disclosures.* As part of the disclosure regime, the Members, the Processors, the Administrator, members of the Advisory Committee, and service providers and subcontractors must respond to questions that are tailored to elicit responses that disclose the potential conflicts of interest as set forth in *Exhibit B.*

Section 4.12 Confidentiality Policy.

All Covered Persons are subject to the Confidentiality Policy set forth in *Exhibit C* to the Plan. The Company will arrange for Covered Persons that are not Voting Representatives, Member Observers, or members of the Advisory Committee to comply with the Confidentiality Policy under their respective agreements with either the Company, a Member, the Administrator, or the Processors.

Article V.

THE PROCESSORS; INFORMATION; INDEMNIFICATION

Section 5.1 General Functions of the Processors.

Subject to the general direction of the Operating Committee, as more fully set forth in the agreement to be entered into between the Company and the Processors (the ''*Processor Services Agreements*''), the Company shall require the Processors to perform certain processing functions on behalf of the Company. Among other things, the Company shall require the Processors to collect from the Members, and consolidate and disseminate to Vendors and Subscribers, Transaction Reports and Quotation Information in Eligible Securities in a manner designed to assure the prompt, accurate, and reliable collection, processing, and dissemination of information with respect to all Eligible Securities in a fair and non-discriminatory manner.

Section 5.2 Evaluation of the Processors.

The Processors' performance of their functions under the Processor Services Agreements shall be subject to review at any time as determined by a vote of the Operating Committee pursuant to Section 4.3; *provided, however,* that a review shall be conducted at least once every two calendar years but not more frequently than once each calendar year (unless the Processors have materially defaulted in their obligations under the Processor Services Agreements and such default has not been cured within the applicable cure period set forth in the Processor Services Agreements, in which event such limitation shall not apply). The Operating Committee may review the Processors at staggered intervals.

Section 5.3 Process for Selecting New Processors.

(a) No later than upon the termination or withdrawal of a Processor or the expiration of a Processor Services Agreement with a Processor, the Operating Committee shall establish procedures for selecting a new Processor (the ''*Processor Selection Procedures*''). The Operating Committee, as part of the process of establishing Processor Selection Procedures, may solicit and consider the timely comment of any entity affected by the operation of this Agreement. The Operating Committee will not need to establish Processor Selection Procedures if the Operating Committee initially selects the CQ Plan and CTA Plan's processor and the UTP Plan's processor to provide the same services to the Company that are currently provided under the CQ Plan, CTA Plan, and UTP Plan.

(b) The Processor Selection Procedures shall be established by the affirmative vote of the Operating Committee pursuant to Section 4.3, and shall set forth, at a minimum:

(i) the entity that will:

(A) draft the Operating Committee's request for proposal for bids on a new Processor;

(B) assist the Operating Committee in evaluating bids for the new Processor; and

(C) otherwise provide assistance and guidance to the Operating Committee in the selection process;

(ii) the minimum technical and operational requirements to be fulfilled by the Processor;

(iii) the criteria to be considered in selecting the Processor; and

(iv) the entities (other than Voting Representatives) that are eligible to comment on the selection of the Processor.

Section 5.4 Transmission of Information to Processors by Members.

(a) Quotation Information.

(i) Each Member shall, during the time it is open for trading, be responsible for promptly collecting and transmitting to the Processors accurate Quotation Information in Eligible Securities through any means set forth in the Processor Services Agreements to

ensure that the Company complies with its obligations under the Processor Services Agreements.

(ii) Quotation Information shall include:

(A) identification of the Eligible Security, using the Listing Market's symbol;

(B) the price bid and offered, together with size;

(C) for FINRA, the FINRA Participant along with the FINRA Participant's market participant identification or Member from which the quotation emanates;

(D) appropriate timestamps;

(E) identification of quotations that are not firm; and

(F) through appropriate codes and messages, withdrawals and similar matters.

(iii) In addition, Quotation Information shall include:

(A) in the case of a national securities exchange, the reporting Member's matching engine publication timestamp; or

(B) in the case of FINRA, the quotation publication timestamp that FINRA's bidding or offering member reports to FINRA's quotation facility in accordance with FINRA rules. In addition, if FINRA's quotation facility provides a proprietary feed of its quotation information, then the quotation facility shall also furnish the Processors with the time of the quotation as published on the quotation facility's proprietary feed. FINRA shall convert any quotation times reported to it to nanoseconds and shall furnish such times to the Processors in nanoseconds since Epoch.

(h) Transaction Reports.

(i) Each Member shall, during the time it is open for trading, be responsible for promptly transmitting to the Processor Transaction Reports in Eligible Securities executed in its Market by means set forth in the Processor Services Agreements.

(ii) Transaction Reports shall include:

(A) identification of the Eligible Security, using the Listing Market's symbol;

(B) the number of shares in the transaction;

(C) the price at which the shares were purchased or sold;

(D) the buy/sell/cross indicator;

(E) appropriate timestamps;

(F) the Market of execution; and

(G) through appropriate codes and messages, late or out-of-sequence trades, corrections, and similar matters.

(iii) In addition, Transaction Reports shall include the time of the transaction as identified in the Member's matching engine publication timestamp. However, in the case of FINRA, the time of the transaction shall be the time of execution that a FINRA member reports to a FINRA trade reporting facility in accordance with FINRA rules. In addition, if the FINRA trade reporting facility provides a proprietary feed of trades reported by the trade reporting facility to the Processor, then the FINRA trade reporting facility shall also furnish the Processors with the time of the transmission as published on the facility's proprietary feed. The FINRA trade reporting facility shall convert times that its members report to it to nanoseconds and shall furnish such times to the Processors in nanoseconds since Epoch.

(iv) Each Member shall (a) transmit all Transaction Reports in Eligible Securities to the Processors as soon as practicable, but not later than 10 seconds, after the time of execution, (b) establish and maintain collection and reporting procedures and facilities reasonably designed to comply with this requirement, and (c) designate as ''late'' any last sale price not collected and reported in accordance with the above-referenced procedures or as to which the Member has knowledge that the time interval after the time of execution is significantly greater than the time period referred to above. The Members shall seek to reduce the time period for reporting last sale prices to the Processors as conditions warrant.

(v) The following types of transactions are not required to be reported to the Processors pursuant to this Agreement:

(A) transactions that are part of a primary distribution by an issuer or of a registered secondary distribution or of an unregistered secondary distribution;

(B) transactions made in reliance on section 4(a)(2) of the Securities Act of 1933;

(C) transactions in which the buyer and the seller have agreed to trade at a price unrelated to the current market for the security (*e.g.,* to enable the seller to make a gift);

(D) the acquisition of securities by a broker-dealer as principal in anticipation of making an immediate exchange distribution or exchange offering on an exchange;

(E) purchases of securities pursuant to a tender offer;

(F) purchases or sales of securities effected upon the exercise of an option pursuant to the terms thereof or the exercise of any other right to acquire securities at a pre-established consideration unrelated to the current market; and

(G) transfers of securities that are expressly excluded from trade reporting under FINRA rules.

(c) The following symbols shall be used to denote the applicable Member:

Code	Member
A	NYSE American LLC.
B	Nasdaq BX, Inc.
C	NYSE National, Inc.
D	Financial Industry Regulatory Authority, Inc.
H	MIAX Pearl Exchange, LLC.
I	Nasdaq ISE, LLC.
J	Cboe EDGA Exchange, Inc.
K	Cboe EDGX Exchange, Inc.
L	Long-Term Stock Exchange Inc.
M	NYSE Chicago, Inc.
N	New York Stock Exchange LLC.
P	NYSE Arca, Inc.
Q	The Nasdaq Stock Market LLC.
U	MEMX LLC.
V	Investors Exchange LLC.
W	Cboe Exchange, Inc.
X	Nasdaq PHLX LLC.
Y	Cboe BYX Exchange, Inc.
Z	Cboe BZX Exchange, Inc.

(d) Indemnification.

(i) Each Member agrees, severally and not jointly, to indemnify and hold harmless and defend the Company, each other Member, the Processors, the Administrator, the Operating Committee, and each of their respective directors, officers, employees, agents, and Affiliates (each, an ''*Member Indemnified Party*'') from and against any and all loss, liability, claim, damage, and expense whatsoever incurred or threatened against such Member Indemnified Party as a result of a system error or disruption at such Member's Market affecting any Transaction Reports, Quotation Information, or other information reported to the Processors by such Member and disseminated by the Processors to Vendors and Subscribers. This indemnity shall be in addition to any liability that the indemnifying Member may otherwise have.

(ii) Promptly after receipt by a Member Indemnified Party of notice of the commencement of any action, such Member Indemnified Party will, if it intends to make a claim in respect thereof against an indemnifying Member, notify the indemnifying Member in writing of the commencement thereof; *provided, however,* that the failure to so notify the indemnifying Member will only relieve the indemnifying Member from any liability which it may have to any Member Indemnified Party to the extent such indemnifying Member is actually prejudiced by such failure. In case any such action is brought against any Member Indemnified Party and it

promptly notifies an indemnifying Member of the commencement thereof, the indemnifying Member will be entitled to participate in, and, to the extent that it elects (jointly with any other indemnifying Member similarly notified), to assume and control the defense thereof with counsel chosen by it. After notice from the indemnifying Member of its election to assume the defense thereof, the indemnifying Member will not be liable to such Indemnified Party for any legal or other expenses subsequently incurred by such Member Indemnified Party in connection with the defense thereof but the Member Indemnified Party may, at its own expense, participate in such defense by counsel chosen by it without, however, impairing the indemnifying Member's control of the defense. If the indemnifying Member has assumed the defense in accordance with the terms hereof, the indemnifying Member may enter into a settlement or consent to any judgment without the prior written consent of the Member Indemnified Party if (i) such settlement or judgment involves monetary damages only, all of which will be fully paid by the indemnifying Member and without admission of fault or culpability on behalf of any Member Indemnified Party, and (ii) a term of the settlement or judgment is that the Person or Persons asserting such claim unconditionally and irrevocably release all Member Indemnified Parties from all liability with respect to such claim; otherwise, the consent of the Member Indemnified Party shall be required in order to enter into any settlement of, or consent to the entry of a judgment with respect to, any claim (which consent shall not be unreasonably withheld, delayed, or conditioned).

Section 5.5 Operational Issues.

(a) Each Member shall be responsible for collecting and validating quotes and last sale reports within its own system prior to transmitting this data to the Processors.

(b) Each Member may utilize a dedicated Member line into the Processors to transmit Transaction Reports and Quotation Information to the Processors.

(c) Whenever a Member determines that a level of trading activity or other unusual market conditions prevent it from collecting and transmitting Transaction Reports or Quotation Information to the Processor, or where a trading halt or suspension in an Eligible Security is in effect in its Market, the Member shall promptly notify the Processors of such condition or event and shall resume collecting and transmitting Transaction Reports and Quotation Information to it as soon as the condition or event is terminated. In the event of a system malfunction resulting in the inability of a Member or its members to transmit Transaction Reports or Quotation Information to the Processors, the Member shall promptly notify the Processors of such event or condition. Upon receiving such notification, the Processors shall take appropriate action, including either closing the quotation or purging the system of the affected quotations.

Article VI.

THE ADMINISTRATOR

Section 6.1 General Functions of the Administrator.

Subject to the general direction of the Operating Committee, as more fully set forth in the agreement entered into between the Company and the Administrator (the ''*Administrative Services Agreement*''), the Administrator shall perform administrative functions on behalf of the Company including recordkeeping; administering Vendor and Subscriber contracts; administering Fees, including billing, collection, and auditing of Vendors and Subscribers; administering Distributions; tax functions of the Company; the preparation of the Company's audited financial reports; and support of Company governance.

Section 6.2 Independence of the Administrator.

The Administrator may not be owned or controlled by a corporate entity that, either directly or via another subsidiary, offers for sale its own PDP.

Section 6.3 Evaluation of the Administrator.

The Administrator's performance of its functions under the Administrative Services Agreement shall be subject to review at any time as determined by an affirmative vote of the Operating Committee pursuant to Section 4.3; *provided, however,* that a review shall be conducted at least once every two calendar years but not more frequently than once each calendar year (unless the Administrator has materially defaulted in its obligations under the Administrative Services Agreement and such default has not been cured within the applicable cure period set forth in the Administrative Services Agreement, in which event such limitation shall not apply). The Operating Committee shall appoint a subcommittee or other Persons to conduct the review. The Company shall require the reviewer to provide the Operating Committee with a written report of its findings and to make recommendations (if necessary), including with respect to the continuing operation of the Administrator. The Administrator shall be required to assist and participate in such review. The Operating Committee shall notify the Commission of any recommendations it may approve as a result of the review of the Administrator and shall supply the Commission with a copy of any reports that may be prepared in connection therewith.

Section 6.4 Process for Selecting New Administrator.

Prior to the Operative Date, upon the termination or withdrawal of the Administrator, or upon the expiration of the Administrative Services Agreement, the Operating Committee shall establish procedures for selecting a new Administrator (the ''Administrator Selection Procedures''). The Operating Committee, as part of the process of establishing Administrator Selection Procedures, may solicit and consider the timely comment of any entity affected by the operation of this Agreement. The Administrator Selection Procedures shall be established by the Operating Committee pursuant to Section 4.3, and shall set forth, at a minimum:

(a) the entity that will:

(i) draft the Operating Committee's request for proposal for bids on a new Administrator;

(ii) assist the Operating Committee in evaluating bids for the new Administrator; and

(iii) otherwise provide assistance and guidance to the Operating Committee in the selection process.

(b) the minimum technical and operational requirements to be fulfilled by the Administrator;

(c) the criteria to be considered in selecting the Administrator; and

(d) the entities (other than Voting Representatives) that are eligible to comment on the selection of the Administrator.

Article VII.

REGULATORY MATTERS

Section 7.1 Regulatory and Operational Halts.

(a) Operational Halts. A Member shall notify the Processors if it has concerns about its ability to collect and transmit quotes, orders, or last sale prices, or where it has declared an Operational Halt or suspension of trading in one or more Eligible Securities, pursuant to the procedures adopted by the Operating Committee.

(b) Regulatory Halts.

(i) The Primary Listing Market may declare a Regulatory Halt in trading for

any security for which it is the Primary Listing Market:

(A) as provided for in the rules of the Primary Listing Market;

(B) if it determines there is a SIP Outage, Material SIP Latency, or Extraordinary Market Activity; or

(C) in the event of national, regional, or localized disruption that necessitates a Regulatory Halt to maintain a fair and orderly market.

(ii) In making a determination to declare a Regulatory Halt under subparagraph (b)(i), the Primary Listing Market will consider the totality of information available concerning the severity of the issue, its likely duration, and potential impact on Member Firms and other market participants and will make a good-faith determination that the criteria of subparagraph (b)(i) have been satisfied and that a Regulatory Halt is appropriate. The Primary Listing Market will consult, if feasible, with the affected Trading Center(s), the other Members, or the Processors, as applicable, regarding the scope of the issue and what steps are being taken to address the issue. Once a Regulatory Halt under subparagraph (b)(i) has been declared, the Primary Listing Market will continue to evaluate the circumstances to determine when trading may resume in accordance with the rules of the Primary Listing Market.

(c) Initiating a Regulatory Halt.

(i) The start time of a Regulatory Halt is when the Primary Listing Market declares the halt, regardless of whether an issue with communications impacts the dissemination of the notice.

(ii) If a Processor is unable to disseminate notice of a Regulatory Halt or the Primary Listing Market is not open for trading, the Primary Listing Market will take reasonable steps to provide notice of a Regulatory Halt, which shall include both the type and start time of the Regulatory Halt, by dissemination through:

(A) PDP;

(B) posting on a publicly-available Member website;

(C) system status messages; or

(D) a notification via an alternate Processor, if available.

(iii) Except in exigent circumstances, the Primary Listing Market will not declare a Regulatory Halt retroactive to a time earlier than the notice of such halt.

(iv) Resumption of Trading After Regulatory Halts Other Than SIP Halts. The Primary Listing Market will declare a resumption of trading when it makes a good-faith determination that trading may resume in a fair and orderly manner and in accordance with its rules.

(v) For a Regulatory Halt that is initiated by another Member that is a Primary Listing Market, a Member may resume trading after the Member receives notification from the Primary Listing Market that the Regulatory Halt has been terminated.

(d) Resumption of Trading After SIP Halt.

(i) The Primary Listing Market will determine the SIP Halt Resume Time. In making such determination, the Primary Listing Market will make a good-faith determination and consider the totality of information to determine whether resuming trading would promote a fair and orderly market, including input from the Processors, the other Members, or the operator of the system in question (as well as any Trading Center(s) to which such system is linked), regarding operational readiness to resume trading. The Primary Listing Market retains discretion to delay the SIP Halt Resume Time if it believes trading will not resume in a fair and orderly manner.

(ii) The Primary Listing Market will terminate a SIP Halt with a notification that specifies a SIP Halt Resume Time. The Primary Listing Market shall provide a minimum notice of a SIP Halt Resume Time, as specified by the rules of the Primary Listing Market, during which period market participants may enter quotes and orders in the affected securities. During Regular Trading Hours, the last SIP Halt Resume Time before the end of Regular Trading Hours shall be an amount of time as specified by the rules of the Primary Listing Market. The Primary Listing Market may stagger the SIP Halt Resume Times for multiple symbols in order to reopen in a fair and orderly manner.

(iii) During Regular Trading Hours, if the Primary Listing Market does not open a security within the amount of time as specified by the rules of the Primary Listing Market after the SIP Halt Resume Time, a Member may resume trading in that security. Outside Regular Trading Hours, a Member may resume trading immediately after the SIP Halt Resume Time.

(e) Member to Halt Trading During Regulatory Halt. A Member will halt trading for any security traded on its Market if the Primary Listing Market declares a Regulatory Halt for the security.

(f) Communications. Whenever, in the exercise of its regulatory functions, the Primary Listing Market for an Eligible Security determines it is appropriate to initiate a Regulatory Halt, the Primary Listing Market will notify all other Members and the affected Processors of such Regulatory Halt as well as provide notice that a Regulatory Halt has been lifted using such protocols and other emergency procedures as may be mutually agreed to between the Members and the Primary Listing Market. The affected Processors shall disseminate to Members notice of the Regulatory Halt (as well as notice of the lifting of a Regulatory Halt) (i) through the CT Feeds or (ii) any other means the affected Processors, in its sole discretion, considers appropriate. Each Member shall be required to continuously monitor these communication protocols established by the Operating Committee and the Processors during market hours, and the failure of a Member to do so shall not prevent the Primary Listing Market from initiating a Regulatory Halt in accordance with the procedures specified herein.

Section 7.2 Hours of Operation of the System.

(a) Quotation Information shall be entered, as applicable, by Members as to all Eligible Securities in which they make a market during Regular Trading Hours on all days the Processors are in operation. Transaction Reports shall be entered for executions that occur from 9:30 a.m. until 4:00:00 p.m. ET by Members as to all Eligible Securities in which they execute transactions during Regular Trading Hours on all days the Processors are in operation.

(b) Members that execute transactions in Eligible Securities outside of Regular Trading Hours, shall report such transactions as follows:

(i) transactions in Eligible Securities executed from 4:00 a.m. up to 9:30:00 a.m. ET (or as otherwise designated by a Member as an execution occurring outside of Regular Trading Hours) and after 4:00:00 p.m. until 8:00 p.m. ET, shall be designated with an appropriate indicator to denote their execution outside normal market hours;

(ii) transactions in Eligible Securities executed after 8:00 p.m. and before 12:00 a.m. (midnight) shall be reported to the Processors between the hours of 4:00 a.m. and 8:00 p.m. ET on the next business day (T+1), and shall be designated ''as/of'' trades to denote their execution on a prior day, and be accompanied by the time of execution;

(iii) transactions in Eligible Securities executed between 12:00 a.m. (midnight) and 4:00 a.m. ET shall be transmitted to the Processors between 4:00 a.m. and 9:30 a.m. ET, on trade date, shall be designated with an appropriate indicator to denote their execution outside normal market hours, and shall be accompanied by the time of execution; and

(iv) transactions reported pursuant to this Section 7.3 shall be included in the calculation of total trade volume for purposes of determining Net Distributable Operating Revenue, but shall not be included in the calculation of the daily high, low, or last sale.

(c) Late trades shall be reported in accordance with the rules of the Member in whose Market the transaction occurred and can be reported between the hours of 4:00 a.m. and 8:00 p.m. ET.

(d) The Processors shall collect, process and disseminate Quotation Information in Eligible Securities at other times between 4:00 a.m. and 9:30 a.m. ET, and after 4:00 p.m. ET, when any Member or FINRA Participant is open for trading, until 8:00 p.m. ET (the ''*Additional Period*''); *provided, however,* that the National Best Bid and Offer quotation will not be disseminated before 4:00 a.m. or after 8:00 p.m. ET. Members that enter Quotation Information or submit Transaction Reports to the Processors during the Additional Period shall do so for all Eligible Securities in which they enter quotations.

Article VIII.

CAPITAL CONTRIBUTIONS; CAPITAL ACCOUNTS

Section 8.1 Capital Accounts.

(a) A separate capital account (''*Capital Account*'') shall be established by the Company and maintained by the Administrator for each Member in accordance with section 704(b) of the Code and Treasury Regulation section 1.704–1(b)(2)(iv). There shall be credited to each Member's Capital Account (i) the Capital Contributions (at fair market value in the case of contributed property) made by such Member (which shall be deemed to be zero for the initial Members), (ii) allocations of Company profits and gain (or items thereof) to such Member pursuant to Section 9.2 and (iii) any recaptured tax credits, or portion thereof, to the extent such increase to the tax basis of a Member's interest in the Company may be allowed pursuant to the Code. Each Member's Capital Account shall be decreased by (x) the amount of distributions (at fair market value in the case of property distributed in kind) to such Member, (y) allocations of Company losses to such Member (including expenditures which can neither by capitalized nor deducted for tax purposes, organization and syndication expenses not subject to amortization and loss on sale or disposition of the Company's assets, whether or not disallowed under sections 267 or 707 of the Code) pursuant to Section 9.2 and (z) any tax credits, or portion thereof, as may be required to be charged to the tax basis of a Membership Interest pursuant to the Code. Capital Accounts shall not be adjusted to reflect a Member's share of liabilities under section 752 of the Code.

(b) The fair market value of contributed, distributed, or revalued property shall be agreed to by the Operating Committee or, if there is no such agreement, by an appraisal.

(c) The foregoing provisions and the other provisions of this Agreement relating to the maintenance of Capital Accounts are intended to comply with Treasury Regulation section 1.704–1(b) promulgated under section 704(b) of the Code, and shall be interpreted and applied in a manner consistent with such Treasury Regulations.

Section 8.2 Additional Capital Contributions.

Except with the approval of the Operating Committee or as otherwise provided in this Section 8.2, no Member shall be obligated or permitted to make any additional contribution to the capital of the Company. The Members agree to make additional Capital Contributions from time to time as appropriate in respect of reasonable administrative and other reasonable expenses of the Company.

Section 8.3 Distributions.

Except as set forth in this Section 8.3 and Section 11.2, and subject to the provisions of Section 13.1, Distributions shall be made to the Members at the times and in the aggregate amounts set forth in *Exhibit D.* Notwithstanding any provisions to the contrary contained in this Agreement, the Company shall not make a Distribution to a Member on account of its interest in the Company if such Distribution would violate Section 18–607 of the Delaware Act or other Applicable Law. Distributions may be made in cash or, if determined by the Operating Committee, in-kind. The Operating Committee may reserve amounts for anticipated expenses or contingent liabilities of the Company. In the event that additional Capital Contributions are called for, and any Member fails to provide the full amount of such additional Capital Contributions as set forth in the relevant resolution of the Operating Committee, any Distributions to be made to such defaulting Member shall be reduced by the amount of any required but unpaid Capital Contribution due from such Member.

Article IX.

ALLOCATIONS

Section 9.1 Calculation of Profits and Losses.

To the fullest extent permitted by Applicable Law, the profits and losses of the Company shall be determined for each fiscal year in a manner consistent with GAAP.

Section 9.2 Allocation of Profits and Losses.

(a) Except as otherwise set forth in this Section 9.2, for Capital Account purposes, all items of income, gain, loss, and deduction shall be allocated among the Members in accordance with *Exhibit D.*

(b) For federal, state and local income tax purposes, items of income, gain, loss, deduction, and credit shall be allocated to the Members in accordance with the allocations of the corresponding items for Capital Account purposes under this Section 9.2, except that items with respect to which there is a difference between tax and book basis will be allocated in accordance with Section 704(c) of the Code, the Treasury Regulations thereunder and Treasury Regulations Section 1.704–1(b)(4)(i).

(c) Notwithstanding any provision set forth in this Section 9.2, no item of deduction or loss shall be allocated to a Member to the extent the allocation would cause a negative balance in such Member's Capital Account (after taking into account the adjustments, allocations and distributions described in Treasury Regulations Sections 1.704–1(b)(2)(ii)(d)(4), (5) and (6)) that exceeds the amount that such Member would be required to reimburse the Company pursuant to this Agreement or Applicable Law.

(d) In the event any Member unexpectedly receives any adjustments, allocations, or distributions described in Treasury Regulations Sections 1.704–1(b)(2)(ii)(d)(4), (5) and (6), items of the Company's income and gain shall be specially allocated to such Member in an amount and manner sufficient to eliminate as quickly as possible any deficit balance in its Capital Account created by such adjustments, allocations or distributions in excess of that permitted under Section 9.2(c). Any special allocations of items of income or gain pursuant to this Section 9.2(d) shall be taken into account in computing subsequent allocations pursuant to this Section 9.2 so that the net amount of any items so allocated and all other items allocated to each Member pursuant to this Section 9.2 shall, to the extent possible, be equal to the net

amount that would have been allocated to each such Member pursuant to the provisions of this Section 9.2 if such unexpected adjustments, allocations or distributions had not occurred.

Article X.

RECORDS AND ACCOUNTING; REPORTS

Section 10.1 Accounting.

(a) The Operating Committee shall maintain a system of accounting which enables the Company to produce accounting records and information substantially consistent with GAAP. The Fiscal Year of the Company shall be the calendar year unless Applicable Law requires a different Fiscal Year.

(b) All matters concerning accounting procedures shall be determined by the Operating Committee.

Section 10.2 Tax Status; Returns.

(a) It is the intent of this Company and the Members that this Company shall be treated as a partnership for federal, state and local income tax purposes. Neither the Company nor any Member shall make an election for the Company to be classified as other than a partnership pursuant to Treasury Regulations Section 301.7701–3 or otherwise.

(b) The Company shall cause federal, state, and local income tax returns for the Company to be prepared and timely filed with the appropriate authorities and shall arrange for the timely delivery to the Members of such information as is necessary for such Members to prepare their federal, state and local tax returns. All tax returns shall be prepared in a manner consistent with the Distributions made in accordance with *Exhibit D.*

Section 10.3 Partnership Representative.

(a) The Operating Committee shall appoint an entity as the ''Partnership Representative'' of the Company for purposes of Section 6223 of the Code and the Treasury Regulations promulgated thereunder, and all federal, state, and local Tax audits and litigation shall be conducted under the direction of the Partnership Representative.

(b) The Partnership Representative shall use reasonable efforts to inform each Member of all significant matters that may come to its attention by giving notice thereof and to forward to each Member copies of all significant written communications it may receive in such capacity. The Partnership Representative shall consult with the Members before taking any material actions with respect to tax matters, including actions relating to (i) an IRS examination of the Company commenced under Section 6231(a) of the Code, (ii) a request for administrative adjustment filed by the Company under Section 6227 of the Code, (iii) the filing of a petition for readjustment under Section 6234 of the Code with respect to a final notice of partnership adjustment, (iv) the appeal of an adverse judicial decision, and (v) the compromise, settlement, or dismissal of any such proceedings.

(c) The Partnership Representative shall not compromise or settle any tax audit or litigation affecting the Members without the approval of a majority of Members. Any material proposed action, inaction, or election to be taken by the Partnership Representative, including the election under Section 6226(a)(1) of the Code, shall require the prior approval of a majority of Members.

Article XI.

DISSOLUTION AND TERMINATION

Section 11.1 Dissolution of Company.

The Company shall dissolve, and its assets and business shall be wound up, upon the occurrence of any of the following events:

(a) Unanimous written consent of the Members to dissolve the Company;

(b) The sale or other disposition of all or substantially all the Company's assets outside the ordinary course of business;

(c) An event which makes it unlawful or impossible for the Company business to be continued;

(d) The withdrawal of one or more Members such that there is only one remaining Member; or

(e) The entry of a decree of judicial dissolution under § 18–802 of the Delaware Act.

Section 11.2 Liquidation and Distribution.

Following the occurrence of an event described in Section 11.1, the Members shall appoint a liquidating trustee who shall wind up the affairs of the Company by (i) selling its assets in an orderly manner (so as to avoid the loss normally associated with forced sales), and (ii) applying and distributing the proceeds of such sale, together with other funds held by the Company: (a) *first,* to the payment of all debts and liabilities of the Company; (b) *second,* to the establishments of any reserves reasonably necessary to provide for any contingent recourse liabilities and obligations; (c) *third,* to the Members in accordance with *Exhibit D;* and (d) *fourth,* to the Members as determined by a majority of Members.

Section 11.3 Termination.

Each of the Members shall be furnished with a statement prepared by the independent accountants retained on behalf of the Company, which shall set forth the assets and liabilities of the Company as of the date of the final distribution of Company's assets under Section 11.2 and the net profit or net loss for the fiscal period ending on such date. Upon compliance with the distribution plan set forth in Section 11.2, the Members shall cease to be such, and the liquidating trustee shall execute, acknowledge, and cause to be filed a certificate of cancellation of the Company. Upon completion of the dissolution, winding up, liquidation, and distribution of the liquidation proceeds, the Company shall terminate.

Article XII.

EXCULPATION AND INDEMNIFICATION

Section 12.1 Exculpation.

Each Member, by and for itself, each of its Affiliates and each of its and their respective equity holders, directors, officers, controlling persons, partners, employees, successors and assigns, hereby acknowledges and agrees that it is the intent of the Company and each Member that the liability of each Member and each individual currently or formerly serving as an SRO Voting Representative (each, an ''*Exculpated Party*'') be limited to the maximum extent permitted by Applicable Law or as otherwise expressly provided herein. In accordance with the foregoing, the Members hereby acknowledge and agree that:

(a) To the maximum extent permitted by Applicable Law or as otherwise expressly provided herein, no present or former Exculpated Party or any of such Exculpated Party's Affiliates, heirs, successors, assigns, agents or representatives shall be liable to the Company or any Member for any loss suffered in connection with a breach of any fiduciary duty, errors in judgment or other acts or omissions by such Exculpated Party; *provided, however,* that this provision shall not eliminate or limit the liability of such Exculpated Party for (i) acts or omissions which involve gross negligence, willful misconduct or a knowing violation of law, or (ii) as provided in Section 5.4(d) hereof, losses resulting from such Exculpated Party's Transaction Reports, Quotation Information or other information reported to the Processors by such Exculpated Party (collectively ''*Non-Exculpated Items*''). Any Exculpated Party may consult with counsel and accountants in respect of

Company affairs, and provided such Person acts in good faith reliance upon the advice or opinion of such counsel or accountants, such Person shall not be liable for any loss suffered in reliance thereon.

(b) Notwithstanding anything to the contrary contained herein, whenever in this Agreement or any other agreement contemplated herein or otherwise, an Exculpated Party is permitted or required to take any action or to make a decision in its ''sole discretion'' or ''discretion'' or that it deems ''necessary,'' or ''necessary or appropriate'' or under a grant of similar authority or latitude, the Exculpated Party may, insofar as Applicable Law permits, make such decision in its sole discretion (regardless of whether there is a reference to ''sole discretion'' or ''discretion''). The Exculpated Party (i) shall be entitled to consider such interests and factors as it desires (including its own interests), (ii) shall have no duty or obligation (fiduciary or otherwise) to give any consideration to any interest of or factors affecting the Company or the Members, and (iii) shall not be subject to any other or different standards imposed by this Agreement, or any other agreement contemplated hereby, under any Applicable Law or in equity.

Section 12.2 Right to Indemnification.

(a) Subject to the limitations and conditions provided in this Article XII and to the fullest extent permitted by Applicable Law, the Company shall indemnify each Company Indemnified Party for Losses as a result of the Company Indemnified Party being a Party to a Proceeding. Notwithstanding the foregoing, no such indemnification shall be available in the event the Company is a claimant against the Company Indemnified Party.

(b) Indemnification under this Article XII shall continue as to a Company Indemnified Party who has ceased to serve in the capacity that initially entitled such Company Indemnified Party to indemnity hereunder; *provided, however,* that the Company shall not be obligated to indemnify a Company Indemnified Party for the Company Indemnified Party's Non-Exculpated Items.

(c) The rights granted pursuant to this Article XII shall be deemed contract rights, and no amendment, modification, or repeal of this Article XII shall have the effect of limiting or denying any such rights with respect to actions taken or Proceedings arising prior to any amendment, modification, or repeal. It is expressly acknowledged that the indemnification provided in this Article XII could involve indemnification for negligence or under theories of strict liability.

(d) The Company shall be the primary obligor in respect of any Company Indemnified Party's claim for indemnification, for advancement of expenses, or for providing insurance, subject to this Article XII. The obligation, if any, of any Member or its Affiliates to indemnify, to advance expenses to, or provide insurance for any Company Indemnified Party shall be secondary to the obligations of the Company under this Article XII (and the Company's insurance providers shall have no right to contribution or subrogation with respect to the insurance plans of such Member or its Affiliates).

Section 12.3 Advance Payment.

Reasonable expenses incurred by a Company Indemnified Party who is a named defendant or respondent to a Proceeding shall be paid by the Company in advance of the final disposition of the Proceeding upon receipt of an undertaking by or on behalf of such Company Indemnified Party to repay such amount if it shall ultimately be determined that he or she is not entitled to be indemnified by the Company.

Section 12.4 Appearance as a Witness.

Notwithstanding any other provision of this Article XII, the Company shall pay or reimburse reasonable out-of-pocket expenses incurred by a Company Indemnified Party in connection with his appearance as a witness or other participation in a Proceeding at a time when he is not a named defendant or respondent in the Proceeding.

Section 12.5 Nonexclusivity of Rights.

The right to indemnification and the advancement and payment of expenses conferred in this Article XII shall not be exclusive of any other right which any Company Indemnified Person may have or hereafter acquire under any law (common or statutory), provision of the Certificate or this Agreement or otherwise.

Article XIII.

MISCELLANEOUS

Section 13.1 Expenses.

The Company shall pay all current expenses, including any Taxes payable by the Company, whether for its own account or otherwise required by law (including any costs of complying with applicable tax obligations), third-party service provider fees, and all administrative and processing expenses and fees, as well as any other amounts owing to the Processors under the Processor Services Agreements, to the Administrator under the Administrative Services Agreement, or to the Processors, Administrator, or FINRA under *Exhibit D* to this Agreement, before any allocations may be made to the Members. Appropriate reserves, as unanimously determined by the Members, may be charged to the Capital Account of the Members for (i) contingent liabilities, if any, as of the date any such contingent liabilities become known to the Operating Committee, or (ii) amounts needed to pay the Company's operating expenses, including administrative and processing expenses and fees, before any allocations are made to the Member. Each Member shall bear the cost of implementation of any technical enhancements to the System made at its request and solely for its use, subject to reapportionment should any other Member subsequently make use of the enhancement, or the development thereof.

Section 13.2 Entire Agreement.

Upon the Operative Date, this Agreement supersedes the CQ Plan, the CTA Plan, and the UTP Plan and all other prior agreements among the Members with respect to the subject matter hereof. This instrument contains the entire agreement with respect to such subject matter.

Section 13.3 Notices and Addresses.

Unless otherwise specified herein, all notices, consents, approvals, reports, designations, requests, waivers, elections, and other communications (collectively, ''*Notices*'') authorized or required to be given pursuant to this Agreement shall be in writing and may be delivered by certified or registered mail, postage prepaid, by hand, by any private overnight courier service, or notification through the Company's web portal. Such Notices shall be mailed or delivered to the Members at the addresses set forth on *Exhibit A* or such other address as a Member may notify the other Members of in writing. Any Notices to be sent to the Company shall be delivered to the principal place of business of the Company or at such other address as the Operating Committee may specify in a notice sent to all of the Members. Notices shall be effective (i) if mailed, on the date three days after the date of mailing, (ii) if hand delivered or delivered by private courier, on the date of delivery, or (iii) if sent by through the Company's web portal, on the date sent; *provided, however,* that notices of a change of

address shall be effective only upon receipt.

Section 13.4 Governing Law.

This Agreement shall be governed by and construed in accordance with the Delaware Act and internal laws and decisions of the State of Delaware, without regard to the conflicts of laws principles thereof; *provided, however,* that the rights and obligations of the Members, the Processors and the Administrator, and of Vendors, Subscribers, and other Persons contracting with the Company in respect of the matters covered by this Agreement, shall at all times also be subject to any applicable provisions of the Exchange Act and any rules and regulations promulgated thereunder. For the avoidance of doubt, nothing in this Agreement waives any protection or limitation of liability afforded any of the Members or any of their Affiliates by common law, including the doctrines of self-regulatory organization immunity and federal preemption.

Section 13.5 Amendments.

(a) Except as this Agreement otherwise provides, this Agreement may be modified from time to time when authorized by the Operating Committee pursuant to Section 4.3, subject to the approval of the Commission or when such modification otherwise becomes effective pursuant to section 11A of the Exchange Act and Rule 608 of Regulation NMS.

(b) In the case of a Ministerial Amendment, the Chair of the Company's Operating Committee may modify this Agreement by submitting to the Commission an appropriate amendment that sets forth the modification; *provided, however,* that 48-hours advance notice of the amendment to the Operating Committee in writing is required. Such an amendment shall become effective upon filing with the Commission in accordance with section 11A of the Exchange Act and Rule 608 of Regulation NMS.

(c) ''*Ministerial Amendment*'' means an amendment to this Agreement that pertains solely to any one or more of the following:

(i) admitting a new Member to the Company;

(ii) changing the name or address of a Member;

(iii) incorporating a change that the Commission has implemented by rule and that requires no conforming language to the text of this Agreement;

(iv) incorporating a change (A) that the Commission has implemented by rule, (B) that requires conforming language to the text of this Agreement, and (C) whose conforming language to the text of this Agreement has been approved by the affirmative vote of the Operating Committee pursuant to Section 4.3;

(v) incorporating a change (A) that a Governmental Authority requires relating to the governance or operation of an LLC, (B) that requires conforming language to the text of this Agreement, and (C) whose conforming language to the text of this Agreement has been approved by the affirmative vote of the Operating Committee pursuant to Section 4.3 or upon approval by a majority of Members pursuant to Section 13.5(b), as applicable; or

(vi) incorporating a purely technical change, such as correcting an error or an inaccurate reference to a statutory provision, or removing language that has become obsolete.

Section 13.6 Successors.

This Agreement shall be binding upon and inure to the benefit of the Members and their respective legal representatives and successors.

Section 13.7 Limitation on Rights of Others.

None of the provisions of this Agreement shall be for the benefit of or enforceable by any creditor of the Company. Furthermore, except as provided in Section 3.7(b), the Members shall not have any duty or obligation to any creditor of the Company to make any contribution to the Company or to issue any call for capital pursuant to this Agreement. Nothing in this Agreement shall be deemed to create any legal or equitable right, remedy or claim in any Person not a party hereto (other than any Person indemnified under Article XII).

Section 13.8 Counterparts.

This Agreement may be executed by the Members in any number of counterparts, no one of which need contain the signature of all Members. As many such counterparts as shall together contain all such signatures shall constitute one and the same instrument.

Section 13.9 Headings.

The section and other headings contained in this Agreement are for reference purposes only and shall not be deemed to be a part of this Agreement or to affect the meaning or interpretation of any provisions of this Agreement.

Section 13.10 Validity and Severability.

If any provision of this Agreement shall be held invalid or unenforceable, that shall not affect the validity or enforceability of any other provisions of this Agreement, all of which shall remain in full force and effect.

Section 13.11 Statutory References.

Each reference in this Agreement to a particular statute or regulation, or a provision thereof, shall be deemed to refer to such statute or regulation, or provision thereof, or to any similar or superseding statute or regulation, or provision thereof, as is from time to time in effect.

Section 13.12 Modifications to be in Writing.

This Agreement constitutes the entire understanding of the parties hereto with respect to the subject matter hereof, and no amendment, modification or alteration shall be binding unless the same is in writing and adopted in accordance with the provisions of Section 13.5.

Article XIV.

IMPLEMENTATION

Section 14.1 Implementation Timeline.

The steps to implement the Plan and timelines for completing these various steps are set forth in Exhibit F. The timeline shall begin when the Plan is approved by the Commission, and such approval is published on the Commission's website. The steps to implement the Plan have been organized into multiple workstreams, some of which can be performed in parallel, and others have dependencies that need to be completed before they can begin. In the Exhibit F, the Company has identified such dependencies, some of which are outside the control of the Operating Committee. In the event a workstream listed in Exhibit F takes shorter or, due to factors outside the Operating Committee's reasonable control, takes longer than expected, the timelines for contingent steps shall be adjusted accordingly to account for such change. Any lengthening of the timeline must be made by an affirmative vote of the Operating Committee pursuant to Section 4.3(b) and must be based on a reasonable determination that the timeline needs to be extended. In such instances, the Operating Committee will include the adjustment in its written progress report to the Commission in accordance with Section 14.2.

Section 14.2 Written Progress Reports to Commission.

(a) Beginning three months after the formation of the Operating Committee and continuing every three months until the Operative Date, the Operating Committee will provide written progress reports to the Commission every three months.

(b) The written progress reports will contain the actions undertaken to date by the Operating Committee and a detailed description of the progress made toward completing each of the steps listed in Exhibit F. The Operating Committee will make such progress reports available on the CQ Plan and CTA Plan's and UTP Plan's websites, and on the Plan's website, when available after the selection of the Administrator.

Section 14.3 Transition From CQ Plan, CTA Plan, and UTP Plan.

(a) Until the Operative Date, the Members will continue to operate pursuant to the CQ Plan, CTA Plan, and UTP Plan with respect to the public dissemination of real-time consolidated equity market data for Eligible Securities rather than this Agreement.

(b) As of the Operative Date, the Members shall conduct, through the Company, the Processor and Administrator functions related to the public dissemination of real-time consolidated equity market data for Eligible Securities required by the Commission to be performed by the Members under the Exchange Act. The Members shall file an amendment to the CQ Plan, CTA Plan, and UTP Plan to cease their operation as of the Operative Date.

IN WITNESS WHEREOF, the undersigned Members have executed this Agreement as of the day and year first above written.

EXHIBIT A

Members of CT Plan LLC

Member Name and Address

Cboe BYX Exchange, Inc., 400 South LaSalle Street, Chicago, Illinois 60605.

Cboe BZX Exchange, Inc., 400 South LaSalle Street, Chicago, Illinois 60605.

Cboe EDGA Exchange, Inc., 400 South LaSalle Street, Chicago, Illinois 60605.

Cboe EDGX Exchange, Inc., 400 South LaSalle Street, Chicago, Illinois 60605.

Cboe Exchange, Inc., 400 South LaSalle Street, Chicago, Illinois 60605.

Financial Industry Regulatory Authority, Inc., 1700 K Street, NW, Washington, DC 20006.

Investors Exchange LLC, 3 World Trade Center 58th Floor, New York, New York 10007.

Long-Term Stock Exchange, Inc., 101 Greenwich Street, 15th Floor, New York, New York 10014.

MEMX LLC, 382 NE 191st Street, Suite 92178, Miami, FL 33179.

MIAX PEARL, LLC, 7 Roszel Road, Suite 1A, Princeton, New Jersey 08540.

Nasdaq BX, Inc., One Liberty Plaza, 165 Broadway, New York, New York 10006.

Nasdaq ISE, LLC, One Liberty Plaza, 165 Broadway, New York, New York 10006.

Nasdaq PHLX LLC, FMC Tower, Level 8, 2929 Walnut Street, Philadelphia, Pennsylvania 19104.

The Nasdaq Stock Market LLC, One Liberty Plaza, 165 Broadway, New York, NY 10006.

New York Stock Exchange LLC, 11 Wall Street, New York, New York 10005.

NYSE American LLC, 11 Wall Street, New York, New York 10005.

NYSE Arca, Inc., 11 Wall Street, New York, New York 10005.

NYSE Chicago, Inc., 11 Wall Street, New York, New York 10005.

NYSE National, Inc., 11 Wall Street, New York, NY 10005.

EXHIBIT B

Disclosures

(a) The *Members* must respond to the following questions and instructions:

(i) Is the Member for profit or not-for-profit? If the Member is for profit, is it publicly or privately owned? If privately owned, list any owner with an interest of 5% or more of the Member, where to the Member's knowledge, such owner, or any affiliate controlling, controlled by, or under common control with the owner, subscribes, directly or through a third-party vendor, to CT Feeds and/or Member PDP.

(ii) Does the Member offer PDP? If yes, list each product, describe its content, and provide a link to where fees for each product are disclosed.

(iii) Provide the names of the Voting Representative, any alternate Voting Representatives designated by the Member, and any Member Observers. Also provide a narrative description of such persons' roles within the Member organization, including the title of each individual as well as any direct responsibilities related to the development, dissemination, sales, or marketing of the Member's PDP, and the nature of those responsibilities sufficient for the public to identify the nature of any potential conflict of interest that could be perceived by a reasonable objective observer as having an effect on the operation of the Company. If such persons work in or with the Member's PDP business, describe such persons' roles and describe how that business and such persons' Company responsibilities impacts their compensation. In addition, describe how such persons' responsibilities with the PDP business may present a conflict of interest with their responsibilities to the Company.

(iv) Does the Member, its Voting Representative, its alternate Voting Representative, or its Member Observers or any affiliate have additional relationships or material economic interests that could be perceived by a reasonable objective observer to present a potential conflict of interest with their responsibilities to the Company? If so, provide a detailed narrative discussion of all material facts necessary to identify the potential conflicts of interest and the effects they may have on the Company.

(b) The *Processors* must respond to the following questions and instructions:

(i) Is the Processor an affiliate of or affiliated with any Member? If yes, disclose the Member(s) and describe the nature of the affiliation. Include an entity-level organizational chart depicting the Processor and its affiliates.

(ii) Provide a narrative description of the functions directly performed by senior staff, the manager employed by the Processor to provide Processor services to the Company, and the staff that reports to that manager.

(iii) Does the Processor provide any services for any Member's PDP, other NMS Plans, or creation of consolidated equity data information for its own use? If Yes, disclose the services the Processor performs and identify which NMS Plans. Does the Processor have any profit or loss responsibility for a Member's PDP or any other professional involvement with persons the Processor knows are engaged in a Member's PDP business? If so, describe.

(iv) List the policies and procedures established to safeguard Restricted Information, Highly Confidential Information, and Confidential Information that is applicable to the Processor.

(v) Does the Processor, or its representatives, have additional relationships or material economic interests that could be perceived by a reasonable objective observer to present a potential conflict of interest with the representatives' responsibilities to the Company? If so, provide a detailed narrative discussion of all material facts necessary to identify the potential conflicts of interest and the effects they may have on the Company.

(c) The *Administrator* must respond to the following questions and instructions:

(i) Provide a narrative description of the functions directly performed by senior staff, the administrative services manager, and the staff that reports to that manager.

(ii) Does the Administrator provide any services for any Member's PDP? If yes, what services? Does the Administrator have any profit or loss responsibility, or licensing responsibility, for a Member's PDP or any other professional involvement with persons the Administrator knows are engaged in the Member's PDP business? If so, describe.

(iii) List the policies and procedures established to safeguard Restricted Information, Highly Confidential Information, and Confidential Information that is applicable to the Administrator.

(iv) Does the Administrator, or its representatives, have additional relationships or material economic interests that could be perceived by a reasonable objective observer to present a potential conflict of interest with the representatives' responsibilities to the Company? If so, provide a detailed narrative discussion of all material facts necessary to identify the potential conflicts of interest and the effects they may have on the Company.

(d) The *members of the Advisory Committee* must respond to the following questions and instructions:

(i) Provide the member of the Advisory Committee's title and a brief description of the member of the Advisory Committee's role within the firm as well as any direct responsibilities related to the procurement of PDP or CT Feeds or the development, dissemination, sales, or marketing of PDP, and the nature of those responsibilities sufficient for the public to identify the nature of any potential conflict of interest that could be perceived by a reasonable objective observer as having an effect on the operation of the Company. If such representatives work in or with their employer's market data business, describe such member of the Advisory Committee's roles and describe how that business impacts their compensation. In addition, describe how such representatives' responsibilities with the market data business may present a conflict of interest with their responsibilities to the Company.

(ii) Does the member of the Advisory Committee have responsibilities related to the firm's use or procurement of market data?

(iii) Does the member of the Advisory Committee have responsibilities related to the firm's trading or brokerage services?

(iv) Does the member of the Advisory Committee's firm use the CT Feeds? Does the member of the Advisory Committee's firm use a Member's PDP?

(v) Does the member of the Advisory Committee's firm offer PDP? If yes, list each product, described its content, and provide information about the fees for each product.

(vi) Does the member of the Advisory Committee's firm have an ownership interest of 5% or more in one or more Members? If yes, list the Member(s).

(vii) Does the member of the Advisory Committee actively participate in any litigation against the CQ Plan, CTA Plan, UTP Plan, or the Company?

(viii) Does the member of the Advisory Committee or the member of the Advisory Committee's firm have additional relationships or material economic interests that could be perceived by a reasonable objective observer to present a potential conflict of interest with their responsibilities to the Company. If so, provide a detailed narrative discussion of all material facts necessary to identify the potential conflicts of interest and the effects they may have on the Company.

(e) Each *service provider or subcontractor* that has agreed in writing to provide required disclosures and be treated as a Disclosing Party shall respond to the following questions and instructions:

(i) Is the service provider or subcontractor affiliated with a Member, Processor, Administrator, or employer of a member of the Advisory Committee? If yes, disclose with whom the person is affiliated and describe the nature of the affiliation.

(ii) If the service provider's or subcontractor's compensation is on a commission basis or is tied to specific metrics, provide a detailed narrative summary of how compensation is determined for performing work on behalf of the Company.

(iii) Is the service provider or subcontractor subject to policies and procedures (including information barriers) concerning the protection of confidential information that includes affiliates? If so, describe. If not, explain their absence.

(iv) Does the service provider or subcontractor, or its representative, have additional relationships or material economic interests that could be perceived by a reasonable objective observer to present a potential conflict of interest with its responsibilities to the Company? If so, provide a detailed narrative discussion of all material facts necessary to identify the potential conflicts of interest and the effects they may have on the Company.

(f) The responses to these questions will be posted on the Company's website. If a Disclosing Party has any material changes in its responses, the Disclosing Party must promptly update its disclosures. Additionally, the Disclosing Parties must update the disclosures on an annual basis to reflect any changes. This annual update must be made before the first quarterly session meeting of each calendar year, which is generally held in mid-February.

EXHIBIT C

Confidentiality Policy

(a) Purpose and Scope.

(i) The purpose of this Confidentiality Policy is to provide guidance to the Operating Committee, and all subcommittees thereof, regarding the confidentiality of any data or information (in physical or electronic form) generated by, accessed by, or transmitted to the Operating Committee or any subcommittee, as well as discussions occurring at a meeting of the Operating Committee or any subcommittee.

(ii) This Policy applies to all Covered Persons. All Covered Persons must adhere to the principles set out in this Policy and all Covered Persons that are natural persons may not receive Company data and information until they affirm in writing that they have read this Policy and undertake to abide by its terms.

(iii) Covered Persons may not disclose Restricted, Highly Confidential, or Confidential information except as consistent with this Policy and directed by the Operating Committee.

(iv) The Administrator and Processors will establish written confidential information policies that provide for the protection of information under their control and the control of their Agents, including policies and procedures that provide systemic controls for classifying, declassifying, redacting, aggregating, anonymizing, and safeguarding information, that is in addition to, and not less than, the protection afforded herein. Such policies will be reviewed and approved by the Operating Committee pursuant to Section 4.3, publicly posted, and made available to the Operating Committee for review and approval every two years thereafter or when changes are made, whichever is sooner.

(v) Information will be classified solely based on its content.

(b) Procedures.

(i) General

(A) The Administrator and Processors will be the custodians of all documents discussed by the Operating Committee and will be responsible for maintaining the classification of such documents pursuant to this Policy.

(B) The Administrator may, under delegated authority, designate documents as Restricted, Highly Confidential, or Confidential, which will be determinative unless altered by an affirmative vote of the Operating Committee pursuant to Section 4.3.

(C) The Administrator will ensure that all Restricted, Highly Confidential, or Confidential documents are properly labeled and, if applicable, electronically safeguarded.

(D) All contracts between the Company and its Agents shall require Company information to be treated as Confidential Information that may not be disclosed to third parties, except as necessary to effect the terms of the contract or as required by law, and shall incorporate the terms of this Policy, or terms that are substantially equivalent or more restrictive, into the contract.

(ii) Procedures Concerning Restricted Information

(A) Disclosure of Restricted Information

(1) Except as provided below, Covered Persons in possession of Restricted Information are prohibited from disclosing it to others.

(2) Covered Persons in possession of Restricted Information are prohibited from disclosing it to others, including Agents, except where authorized to do so by the Operating Committee. Any authorization to disclose Restricted Information must identify the Covered Persons or third party authorized to receive the Restricted Information, and such disclosure must be in furtherance of the interests of the plan. Any authorization must be granted on a case-by-case basis, unless the Operating Committee grants standing approval to allow disclosure of specified recurring information to identified Covered Persons. Any Covered Person or third party receiving or having access to Restricted Information pursuant to this subparagraph must segregate such information, retain it in confidence, and use it only in a manner consistent with the terms of this Policy.

(3) Covered Persons may disclose Restricted Information to the staff of the SEC or as otherwise required by Applicable Law, or to other Covered Persons as expressly provided for by this Policy.

(B) If the Administrator determines that it is appropriate to share a customer's financial information with the Operating Committee or a subcommittee thereof, the Administrator will first anonymize the information by redacting the customer's name and any other information that may lead to the identification of the customer.

(C) The Administrator may disclose the identity of a customer that is the subject of Restricted Information in Executive Session only if the Administrator determines in good faith that it is necessary to disclose the customer's identity in order to obtain input or feedback from the Operating Committee or a subcommittee thereof about a matter of importance to the Company. In such an event, the Administrator will change the designation of the information at issue from ''Restricted Information'' to ''Highly Confidential Information,'' and its use will be governed by the procedures for Highly Confidential Information in subparagraph (iii) below.

(iii) Procedures Concerning Highly Confidential Information

(A) Disclosure of Highly Confidential Information:

(1) Highly Confidential Information may be disclosed in Executive Session of the Operating Committee or to the subcommittee established pursuant to Section 4.7(c). Covered Persons in possession of Highly Confidential Information are prohibited from disclosing it to others, including Agents, except as provided below. This prohibition does not apply to disclosures to the staff of the SEC or as otherwise required by law (such as those required to receive the information to ensure the Member complies with its regulatory obligations).

(2) An SRO Voting Representative may disclose certain Highly Confidential Information to officers or employees of a Member who have direct or supervisory responsibility for the Member's participation in the Plan, or with agents for the Member supporting the Member's participation in the Plan, provided that such information may not be used in the procurement for, or development, modeling, pricing, licensing, or sale of, PDP. The types of Highly Confidential Information permitted to be shared under this subparagraph shall consist of (i) the Plan's contract negotiations with the Processor(s) or Administrator; (ii) communications with, and work product of, counsel to the Plan; and (iii) information concerning personnel matters that affect the employees of the Member or of the Plan. Any Covered Person receiving or having access to Restricted Information pursuant to this subparagraph must segregate such information, retain it in confidence, and use it only in a manner consistent with the terms of this Policy. Any SRO Voting Representative who discloses Highly Confidential Information pursuant to this subparagraph shall maintain a log documenting each instance of such disclosure, including the information shared, the persons receiving the information, and the date the information was shared.

(3) Highly Confidential Information may be disclosed to the staff of the SEC, unless it is protected by the Attorney-Client Privilege or the Work Product Doctrine. Any disclosure of Highly Confidential Information to the staff of the SEC will be accompanied by a FOIA Confidential Treatment request.

(4) Highly Confidential Information may be disclosed, as required by Applicable Law.

(5) The Operating Committee may authorize the disclosure of specified Highly Confidential Information to identified third parties that are acting as Agents. Any authorization must be granted on a case-by-case basis, unless the Operating Committee grants standing approval to allow disclosure of specified recurring information to identified Covered Persons. Any Covered Person or third party receiving or having access to Highly Confidential Information pursuant to this subparagraph must segregate such information, retain it in confidence, and use it only in a manner consistent with the terms of this Policy.

(5) Apart from the foregoing, the Operating Committee has no power to authorize any other disclosure of Highly Confidential Information.

(B) In the event that a Covered Person is determined by an affirmative vote of the Operating Committee pursuant to this Policy to have disclosed Highly Confidential Information, the Operating Committee will determine the appropriate remedy for the breach based on the facts and circumstances of the event. For an SRO Voting Representative or Member Observer, remedies include a letter of complaint submitted to the SEC, which may be made public by the Operating Committee. For a member of the Advisory Committee, remedies include removal of that member of the Advisory Committee.

(iv) Procedures Concerning Confidential Information

(A) Confidential Information may be disclosed during a meeting of the Operating Committee or any subcommittee thereof. Additionally, a Covered Person may disclose

Confidential Information to other persons who need to receive such information to fulfill their responsibilities to the Plan, including oversight of the Plan. The recipient must segregate the information, retain it in confidence, and use it only in a manner consistent with the terms of this policy. A Covered Person also may disclose Confidential Information to the staff of the SEC, as authorized by the Operating Committee as described below, or as may be otherwise required by law.

(B) The Operating Committee may authorize the disclosure of Confidential Information by an affirmative vote of the Operating Committee pursuant to Section 4.3. Any authorization must be granted on a case-by-case basis, unless the Operating Committee grants standing approval to allow disclosure of specified recurring information to identified Covered Persons. Any Covered Person or third party receiving or having access to Confidential Information pursuant to this subparagraph must segregate such information, retain it in confidence, and use it only in a manner consistent with the terms of this Policy. Notwithstanding the foregoing, the Operating Committee will not authorize the disclosure of Confidential Information that is generated by a Member or member of the Advisory Committee and designated by such Member or member of the Advisory Committee as Confidential, unless such Member or member of the Advisory Committee consents to the disclosure.

(C) Members of the Advisory Committee may be authorized by the Operating Committee to disclose particular Confidential Information only in furtherance of the interests of the Company, to enable them to consult with industry representatives or technical experts, provided that the members of the Advisory Committee take any steps requested by the Operating Committee to prevent further dissemination of that Confidential Information, including providing the individual(s) consulted with a copy of this Policy and requesting that person to maintain the confidentiality of such information in a manner consistent with this policy.

(D) A Covered Person that is a representative of a Member may be authorized by the Operating Committee to disclose particular Confidential Information to other employees or agents of the Member or its affiliates only in furtherance of the interests of the Company as needed for such Covered Person to perform his or her function on behalf of the Company. A copy of this Policy will be made available to recipients of such information who are employees or agents of a Member or its affiliates that are not Covered Persons, who will be required to abide by this Confidentiality Policy.

(E) A Covered Person may disclose their own individual views and statements that may otherwise be considered Confidential Information without obtaining authorization of the Operating Committee, provided that in so disclosing, the Covered Person is not disclosing the views or statements of any other Covered Person or Member that are considered Confidential Information.

(F) A person that has reason to believe that Confidential Information has been disclosed by another without the authorization of the Operating Committee or otherwise in a manner inconsistent with this Policy may report such potential unauthorized disclosure to the Chair of the Operating Committee. In addition, a Covered Person that discloses Confidential Information without the authorization of the Operating Committee will report such disclosure to the Chair of the Operating Committee. Such self-reported unauthorized disclosure of Confidential Information will be recorded in the minutes of the meeting of the Operating Committee and will contain: (a) the name(s) of the person(s) who disclosed such Confidential Information, and (b) a description of the Confidential Information disclosed. The name(s) of the person(s) who disclosed such Confidential Information will also be recorded in any publicly available summaries of Operating Committee minutes.

EXHIBIT D

Distributions

Cost Allocation and Revenue Sharing

(a) *Payments.* In accordance with Paragraph (l) of this Exhibit D, each Member will receive an annual payment (if any) for each calendar year that is equal to the sum of the Member's Trading Shares and Quoting Shares (each as defined below), in each Eligible Security for such calendar year. In the event that total Net Distributable Operating Income (as defined below) is negative for a given calendar year, each Member will receive an annual bill for such calendar year to be determined according to the same formula (described in this paragraph) for determining annual payments to the Members. Unless otherwise stated in this agreement, a year shall run from January 1st to December 31st and quarters shall end on March 31st, June 30th, September 30th, and December 31st. The Company shall cause the Administrator to provide the Members with written estimates of each Member's percentage of total volume within five business days of the end of each calendar month.

(b) *Security Income Allocation.* The ''*Security Income Allocation*'' for an Eligible Security shall be determined by multiplying (i) the Net Distributable Operating Income under this Agreement for the calendar year by (ii) the Volume Percentage for such Eligible Security (the ''*Initial Allocation*''), and then adding or subtracting any amounts specified in the reallocation set forth below.

(c) *Volume Percentage.* The ''*Volume Percentage*'' for an Eligible Security shall be determined by dividing (A) the square root of the dollar volume of Transaction Reports disseminated by the Processors in such Eligible Security during the calendar year by (B) the sum of the square roots of the dollar volume of Transaction Reports disseminated by the Processors in each Eligible Security during the calendar year.

(d) *Cap on Net Distributable Operating Income.* If the Initial Allocation of Net Distributable Operating Income in accordance with the Volume Percentage of an Eligible Security equals an amount greater than $4.00 multiplied by the total number of qualified Transaction Reports in such Eligible Security during the calendar year, the excess amount shall be subtracted from the Initial Allocation for such Eligible Security and reallocated among all Eligible Securities in direct proportion to the dollar volume of Transaction Reports disseminated by the Processors in Eligible Securities during the calendar year. A Transaction Report with a dollar volume of $5,000 or more shall constitute one qualified Transaction Report. A Transaction Report with a dollar volume of less than $5,000 shall constitute a fraction of a qualified Transaction Report that equals the dollar volume of the Transaction Report divided by $5,000.

(e) *Trading Share.* The ''*Trading Share*'' of a Member in an Eligible Security shall be determined by multiplying (i) an amount equal to fifty percent of the Security Income Allocation for the Eligible Security by (ii) the Member's Trade Rating in the Eligible Security.

(f) *Trade Rating.* A Member's ''*Trade Rating*'' in an Eligible Security shall be determined by taking the average of (A) the Member's percentage of the total dollar volume of Transaction Reports disseminated by the Processors in the

Eligible Security during the calendar year, and (B) the Member's percentage of the total number of qualified Transaction Reports disseminated by the Processors in the Eligible Security during the calendar year.

(g) *Quoting Share.* The ''*Quoting Share*'' of a Member in an Eligible Security shall be determined by multiplying (A) an amount equal to fifty percent of the Security Income Allocation for the Eligible Security by (B) the Member's Quote Rating in the Eligible Security.

(h) *Quote Rating.* A Member's ''*Quote Rating*'' in an Eligible Security shall be determined by dividing (A) the sum of the Quote Credits earned by the Member in such Eligible Security during the calendar year by (B) the sum of the Quote Credits earned by all Members in such Eligible Security during the calendar year.

(i) *Quote Credits.* A Member shall earn one ''*Quote Credit*'' for each second of time (with a minimum of one full second) multiplied by dollar value of size that an automated best bid (offer) transmitted by the Member to the Processors during regular trading hours is equal to the price of the National Best Bid and Offer in the Eligible Security and does not lock or cross a previously displayed ''automated quotation'' (as defined under Rule 600 of Regulation NMS). The dollar value of size of a quote shall be determined by multiplying the price of a quote by its size.

(j) *Net Distributable Operating Income.* The ''*Net Distributable Operating Income*'' for any particular calendar year shall mean:

(i) all cash revenues, funds and proceeds received by the Company during such calendar year (other than Capital Contributions by the Members or amounts paid pursuant to Section 3.7(b) of this Agreement), including all revenues from (A) the CT Feeds, which includes the dissemination of information with respect to Eligible Securities to foreign marketplaces, and (B) FINRA quotation data and last sale information for securities classified as OTC Equity Securities under FINRA's Rule 6400 Series (the ''*FINRA OTC Data*'') ((A) and (B) collectively, the ''*Data Feeds*''), and (C) any Membership Fees; less

(ii) 6.25% of the revenue received by the Company during such calendar year attributable to the segment of the Data Feeds reflecting the dissemination of information with respect to Network C Securities and FINRA OTC Data (but, for the avoidance of doubt, not including revenue attributable to the segment of the Data Feeds reflecting the dissemination of information with respect to Network A Securities and Network B Securities), which amount shall be paid to FINRA as compensation for the FINRA OTC Data; [1] *less*

(iii) reasonable working capital reserves and reasonable reserves for contingencies for such calendar year, as determined by the Operating Committee, and all costs and expenses of the Company during such calendar year, including:

(A) all amounts payable during such calendar year to the Administrator pursuant to the Administrative Services Agreement or this Agreement;

(B) all amounts payable during such calendar year to the Processors pursuant to the Processor Services Agreements or this Agreement; and

(C) all amounts payable during such calendar year to third-party service providers engaged by or on behalf of the Company.

(k) *Initial Eligibility.* At the time a Member implements a Processor-approved electronic interface with the Processors, the Member will become eligible to receive revenue.

(l) *Quarterly Distributions.* The Company shall cause the Administrator to provide Members with written estimates of each Member's quarterly Net Distributable Operating Income within 45 calendar days of the end of the quarter, and estimated quarterly payments or billings shall be made on the basis of such estimates. All quarterly payments or billings shall be made to each eligible Member within 45 days following the end of each calendar quarter in which the Member is eligible to receive revenue; *provided,* that each quarterly payment or billing shall be reconciled against a Member's cumulative year-to-date payment or billing received to date and adjusted accordingly; *further, provided,* that the total of such estimated payments or billings shall be reconciled at the end of each calendar year and, if necessary, adjusted by March 31st of the following year. Interest shall be included in quarterly payments and in adjusted payments made on March 31st of the following year. Such interest shall accrue monthly during the period in which revenue was earned and not yet paid and will be based on the 90-day Treasury bill rate in effect at the end of the quarter in which the payment is made. Monthly interest shall start accruing 45 days following the month in which it is earned and accrue until the date on which the payment is made.

(m) *Itemized Statements.* In conjunction with calculating estimated quarterly and reconciled annual payments under this Exhibit D, the Company shall cause the Administrator to submit to the Members a quarterly itemized statement setting forth the basis upon which Net Distributable Operating Income was calculated. Such Net Distributable Operating Income shall be adjusted annually based solely on the quarterly itemized statement audited pursuant to the annual audit. The Company shall cause the Administrator to pay or bill Members for the audit adjustments within thirty days of completion of the annual audit. Upon the affirmative vote of Voting Representatives pursuant to Section 4.3, the Company shall cause the Administrator to engage an independent auditor to audit the Administrator's costs or other calculation(s).

EXHIBIT E

Fees

[To be determined by the Operating Committee under this Agreement]

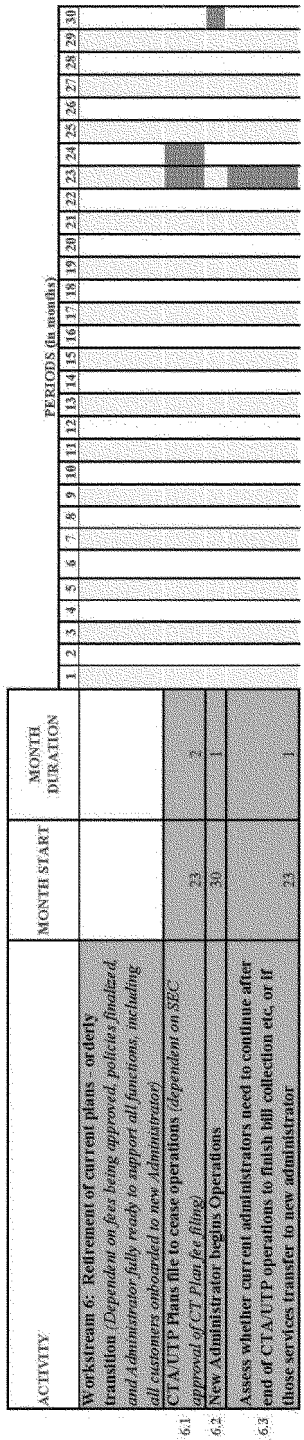
BILLING CODE 8011–01–P

[1] All costs associated with collecting, consolidating, validating, generating, and disseminating the FINRA OTC Data are borne directly by FINRA and not the Company and the Members.

Exhibit F

	ACTIVITY	MONTH START	MONTH DURATION
	Workstream 1: Set Up CT Plan Governance *(To Start following SEC approval of CT Plan)*		
1.1	**Designation of Member Representatives**	1	1
1.2	**Determine interim funding (to pay for counsel, RFP advisory firm, Administrator, etc.)**	1	2
1.3	**Hire Outside Counsel**	2	0.25
1.4	**Hire Communications Firm**	2	0.25
1.5	**Advisory Committee Formation** **- announcement** **- interviews** **- OpCo Vote**	1	3
1.6	**Engage Processor(s)** **- Contracts** **- SLAs**	4	6
	Workstream 2: New Fees, Policies, and Data Subscriber Agreements *(Dependent on Advisory Committee formation - To be prepared in parallel with Workflow process to select new Administrator)*		
2.1	**OpCo and Advisory Committees to determine new fees/policies**	4	7
2.2	**Draft fee filing (and any related policies that need to be filed)**	11	1
2.3	**File and Obtain approval of fee filing**	12	10
2.4	**OpCo and Advisory Committees to determine policies (to the extent separate from fee filing, e.g., direct v indirect bill)**	4	9
2.5	**OpCo to work with counsel to develop new data subscriber agreements**	13	5
	Workstream 3: Selection of New Administrator *(Dependent on Advisory Committee Formation and Interim Funding)*		
3.1	**Hire Advisory Firm To Manage RFI/RFP Process** **- announcement** **- interviews** **- decision**	4	1
3.2	**Draft RFP for New Administrator**	5	2
3.3	**Advertise & Solicit Response to RFP**	7	2
3.4	**Advisory firm evaluates bids and provides preliminary recommendations (e.g., narrowing of bids)**	9	1
3.5	**Operating Committee conducts interviews (potential for revised bids, subject to quality of RFP responses)**	10	4
3.6	**Operating Committee votes on New Administrator**	14	1

	ACTIVITY	MONTH START	MONTH DURATION	PERIODS (in months) 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30
4.1	Workstream 4: Contract Negotiations with New Administrator *(Dependent on fees/policies being finalized, which could impact scope of service)*			
	Operating Committee negotiates Administrative Services Agreement and SLAs with New Administrator	15	4	
	Workstream 5: Administrator Setup *(Dependent on fees, policies, and data subscriber agreements being finalized and contract/SLA with new Administrator executed)*			
5.1	Develop systems that tailor to Plan requirements to support account information, track vendor relationships, billing, interactive licensing tool. Allow for customers to: •View account profile, subscriptions, entities they are redistributing •View invoices •Report usage and external redistribution •Submit contracts online •Submit data feed requests	19	3	
5.2	Hire Staff to support all functions (e.g., customer services,account management, customer audits, Plan services, accounting)	19	3	
5.3	Transfer existing customer data from UTP and CTA plans to new Administrator	20	5	
5.4	Standup New Plan Website	19	3	
5.5	Customer announcements *(communicating details about how to transition, timing and deadlines)*	22	8	
5.6	Contractually repaper all customers to new data subscriber agreements	23	4	
5.7	Customer onboarding to new systems	25	5	
5.8	Set up financial workflow for the Plan financial statements to the Plan coordinate with Processors on revenue allocation manage Plan expenses and payments support Plan audit requirements including SOX, tax, annual, statutory	21	4	
5.9	Set up support for Plan governance (e.g., online board books, voting portal, document repository, drafting and tracking compliance with Confidentiality Policy and Conflicts Policy)	21	6	



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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99398; File No. SR–NYSEARCA–2024–06]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of a Proposed Rule Change To Amend Rule 5.3–O To Permit the Listing and Trading of Options on Commodity-Based Trust Shares

January 19, 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 16, 2024, NYSE Arca, Inc. (''NYSE Arca'' 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 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 Rule 5.3–O to permit the listing and trading of options on Commodity-Based Trust Shares. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

NYSE Arca Rule 5.3–O, Criteria for Underlying Securities, provides for Exchange listing and trading of option contracts. The rule sets forth the criteria to be met by underlying securities with respect to which put or call option contracts are approved for listing and trading on the Exchange. The purpose of this filing is to amend NYSE Arca Rule 5.3–O, and more specifically, NYSE Arca Rule 5.3–O(g) to permit the listing and trading of options on Commodity-Based Trust Shares.[4]

Currently, Rule 5.3–O(g) deems appropriate for options trading Exchange-Traded Fund Shares (''ETFs'' or ''Fund Shares'') that are traded on a national securities exchange and are defined as an ''NMS stock'' in Rule 600(b)(55) of Regulation NMS, and that (i) represent an interest in a registered investment company organized as open-end management investment company, a unit investment trust or a similar entity which holds securities and/or financial instruments, options on securities and indices, equity caps, collars and floors, swap agreements, forward contracts, repurchase agreements and reverse purchase agreements (the ''Financial Instruments''), and money market instruments, including, but not limited to, U.S. government securities and repurchase agreements (the ''Money Market Instruments'') constituting or otherwise based on or representing an investment in an index or portfolio of securities and/or Financial Instruments and Money Market Instruments; or (ii) represent interests in a trust or similar entity that holds a specified non-U.S. currency deposited with the trust or similar entity when aggregated in some specified minimum number may be surrendered to the trust by the beneficial owner to receive the specified non-U.S. currency and pays the beneficial owner interest and other distributions on the deposited non-U.S. currency, if any, declared and paid by the trust; or (iii) represent commodity pool interests principally engaged, directly or indirectly, in holding and/or managing portfolios or baskets of securities, commodity futures contracts, options on commodity futures contracts, swaps, forward contracts and/or options

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] The term ''Commodity-Based Trust Shares'' means a security (a) that is issued by a trust (''Trust'') that holds (1) a specified commodity deposited with the Trust, or (2) a specified commodity and, in addition to such specified commodity, cash; (b) that is issued by such Trust in a specified aggregate minimum number in return for a deposit of a quantity of the underlying commodity and/or cash; and (c) that, when aggregated in the same specified minimum number, may be redeemed at a holder's request by such Trust which will deliver to the redeeming holder the quantity of the underlying commodity and/or cash. *See* NYSE Arca Rule 8.201–E(c)(1).

on physical commodities and/or non-U.S. currency (''Commodity Pool Units''), or (iv) represent interests in the SPDR Gold Trust, or (v) represent interests in the iShares COMEX Gold Trust, or (vi) represent interests in the iShares Silver Trust, or, (vii) represents an interest in a registered investment company (''Investment Company'') organized as an open-end management investment company or similar entity, that invests in a portfolio of securities selected by the Investment Company's investment adviser consistent with the Investment Company's investment objectives and policies, which is issued in a specified aggregate minimum number in return for a deposit of a specified portfolio of securities and/or a cash amount with a value equal to the next determined net asset value (''NAV''), and when aggregated in the same specified minimum number, may be redeemed at a holder's request, which holder will be paid a specified portfolio of securities and/or cash with a value equal to the next determined NAV (''Managed Fund Share'') or, (viii) represents interest in the ETFS Silver Trust or the ETFS Gold Trust, or (ix) represents interests in the ETFS Palladium Trust or ETFS Platinum Trust.[5] This rule change proposes to expand the type of ETFs that may be approved for options trading on the Exchange to include Commodity-Based Trust Shares[6] without requiring a rule filing under Section 19(b) of the Act.[7]

Apart from allowing Commodity-Based Trust Shares to be an underlying for options traded on the Exchange as described above, the listing standards for ETFs will remain unchanged from those that apply under current Exchange rules. ETFs on which options may be listed and traded must still be listed and traded on a national securities exchange and must satisfy the current listing standards set forth in NYSE Arca Rule 5.3–O.

Commodity-Based Trust Shares are securities issued by a trust that represents investors' discrete identifiable and undivided beneficial ownership interest in the commodities deposited into the Trust. Commodity-Based Trust Shares, although based upon a publicly disclosed portfolio of securities, each trade as a single exchange-listed equity security. Accordingly, rules pertaining to the listing and trading of standard equity options will apply to options on Commodity-Based Trust Shares.

[5] *See* NYSE Arca Rule 5.3–O(g).

[6] *See* NYSE Arca Rule 8.201–E(c)(1).

[7] 15 U.S.C. 78s(b).

Listing Criteria

The Exchange will consider listing and trading options on Commodity-Based Trust Shares provided the Commodity-Based Trust Shares meet (1) the criteria for underlying securities set forth in NYSE Arca Rule 5.3–O(a)[8] –(b),[9] or (2) the Commodity-Based Trust Shares are available for creation and redemption each business day as set forth in NYSE Arca Rule 5.3–O(g)(1)(B).

The Exchange proposes that Commodity-Based Trust Shares deemed appropriate for options trading represent an interest in a trust, as described below:

• *Commodity-Based Trust Shares* are securities (a) that are issued by a trust (''Trust'') that holds (1) a specified commodity deposited with the Trust, or (2) a specified commodity and, in addition to such specified commodity, cash; (b) that is issued by such Trust in a specified aggregate minimum number in return for a deposit of a quantity of the underlying commodity and/or cash; and (c) that, when aggregated in the same specified minimum number, may be redeemed at a holder's request by such Trust which will deliver to the redeeming holder the quantity of the underlying commodity and/or cash.[10]

Additionally, the Exchange proposes that options on Commodity-Based Trust Shares may only be listed and traded on the Exchange if the underlying security has been reviewed and approved by the Securities and Exchange Commission under Section 19(b)(2) of the Act or noticed for immediate effectiveness under Section 19(b)(3)(A) of the Act, as applicable. Pursuant to Commission approval, the Exchange currently lists and trades 18 Commodity-Based Trust Shares.[11] While the Exchange's rules currently provide for the listing of options on a limited number of such Commodity-Based Trust Shares,[12] this proposed rule change would permit listing options on any Commodity-Based Trust Share, including the 11 Commodity-Based Trust Shares that have been approved for listing and trading by the Commission but are not currently eligible for options trading.

Continued Listing Requirements

The Exchange represents that the current continued listing standards for options on Exchange-Traded Fund Shares will apply to options on Commodity-Based Trust Shares. Specifically, under NYSE Arca Rule 5.4–O(k), options on Exchange-Traded Fund Shares may be subject to the suspension of opening transactions as follows: (1) the Commodity-Based Trust Share no longer meets the terms of paragraphs 1 through 4 of Rule 5.4–O(b); (2) following the initial twelve-month period beginning upon the commencement of trading of the Exchange-Traded Fund Shares, there are fewer than 50 record and/or beneficial holders of the Exchange-Traded Fund Shares for 30 or more consecutive trading days; (3) the value of the underlying commodity is no longer calculated or available; or (4) such other event occurs or condition exists that in the opinion of the Exchange makes further dealing on the Exchange inadvisable. Additionally, Commodity-Based Trust Shares shall not be deemed to meet the requirements for continued approval, and the Exchange shall not open for trading any additional series of option contracts covering Commodity-

[8] *See* NYSE Arca Rule 5.3–O(a) which sets forth minimum requirements for the underlying security which include, but are not limited to, 7,000,000 underlying shares, 2,000 shareholders, and trading volume of 2,400,000 shares over the preceding twelve months. Additionally, the rule requires that the market price per share of the underlying security must be at least $7.50 for the majority of business days during the three calendar months preceding the date of selection of an option class. For underlying securities that are deemed Covered Securities, as defined under Section 18(b)(1)(A) of the Securities Act of 1933, the closing market price of the underlying security must be at least $3.00 per share for the previous three consecutive business days prior to the date of selection of an option class.

[9] *See* NYSE Arca Rule 5.3–O(b) which states that the underlying securities shall be registered and be an ''NMS Stock'' as defined in Rule 600 of Regulation NMS under the Act.

[10] *See* NYSE Arca Rule 8.201–E(c)(1).

[11] *See e.g.* Securities Exchange Act Release Nos. 94518 (March 25, 2022), 87 FR 18837 (March 31, 2022) (Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, To List and Trade Shares of the Sprott ESG Gold ETF Under NYSE Arca Rule 8.201–E (Commodity-Based Trust Shares) (SR–NYSEArca–2021–65); 82249 (December 8, 2017), 82 FR 58884 (December 14, 2017) (Notice of Filing of Amendment No. 2 and Order Approving on an Accelerated Basis a Proposed Rule Change, as Modified by Amendment No. 2, To List and Trade Shares of the GraniteShares Platinum Trust Under NYSE Arca Rule 8.201–E) (SR–NYSEArca–2017–110); 68430 (December 13, 2012), 77 FR 75239 (December 19, 2012) (Order Approving a Proposed Rule Change, as Modified by Amendment No. 1, To List and Trade Units of the Sprott Physical Platinum and Palladium Trust Pursuant to NYSE Arca Equities Rule 8.201) (SR–NYSEArca–2012–111); and 63043 (October 5, 2010), 75 FR 62615 (Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change To List and Trade Shares of the Sprott Physical Silver Trust) (SR–NYSEArca–2010–84).

[12] *See* NYSE Arca Rule 5.3–O(g)(iv) which permits the listing and trading of options on the SPDR Gold Trust; NYSE Arca Rule 5.3–O(g)(v) which permits the listing and trading of options on the iShares COMEX Gold Trust; NYSE Arca Rule 5.3–O(g)(vi) which permits the listing and trading of options on the iShares Silver Trust; NYSE Arca Rule 5.3–O(g)(viii) which permits the listing and trading of options on the ETFS Silver Trust or ETFS Gold Trust; and NYSE Arca Rule 5.3–O(g)(ix) which permits the listing and trading of options on the ETFS Palladium Trust or ETFS Platinum Trust.

Based Trust Shares if such security ceases to be an ''NMS stock'' as provided for in NYSE Arca Rule 5.4–O(b)(5) or the Commodity-Based Trust Share is halted from trading on its primary market.[13]

Finally, all options on Commodity-Based Trust Shares listed pursuant to proposed Rule 5.3–O(g)(x) would be included within the definition of securities as such terms are used in the Exchange's rules and, as such, would be subject to Exchange rules and procedures that currently govern the trading of securities on the Exchange, including Exchange rules governing the trading of equity options. Furthermore, the Exchange's rules pertaining to position and exercise limits [14] or margin [15] shall apply to options on Commodity-Based Trust Shares.

The Exchange notes that options on Commodity-Based Trust Shares would not be available for trading until The Options Clearing Corporation (''OCC'') represents to the Exchange that it is fully able to clear and settle such options. The Exchange has also analyzed its capacity and represents that it and The Options Price Reporting Authority (''OPRA'') have the necessary systems capacity to handle the additional traffic associated with the listing of options on Commodity-Based Trust Shares.[16] The Exchange believes any additional traffic that would be generated from the trading of options on Commodity-Based Trust Shares would be manageable. The Exchange represents that Exchange members will not have a capacity issue as a result of this proposed rule change.

The Exchange believes that its surveillance procedures are adequate to properly monitor the trading of options on Commodity-Based Trust Shares in all trading sessions and to deter and detect violations of Exchange rules. The Exchange will utilize its existing surveillance procedures applicable to options on exchange traded funds (which will include Commodity-Based Trust Shares) to monitor such trading. In addition, the Exchange will implement any new surveillance procedures it deems necessary to effectively monitor the trading of options on Commodity-Based Trust Shares, including adequate comprehensive surveillance sharing agreements (''CSSA'') with markets trading in non-U.S. components,[17] as applicable. Also, the Exchange may obtain trading information via the Intermarket Surveillance Group (''ISG'') [18] from other exchanges who are members or affiliates of the ISG. The Exchange represents that these procedures will be adequate to properly monitor Exchange trading of options on Commodity-Based Trust Shares and to deter and detect violations of Exchange rules.

Finally, quotation and last sale information for Commodity-Based Trust Shares is available via the Consolidated Tape Association (''CTA'') high speed line. Quotation and last sale information for such securities is also available from the exchange on which such securities are listed. Quotation and last sale information for options on Commodity-Based Trust Shares will be available via OPRA [19] and major market data vendors.

The Exchange notes that the Commission has previously approved generic listing standards pursuant to Rule 19b–4(e) of the Act [20] for ETFs based on indexes that consist of stocks listed on U.S. exchanges.[21] In addition, the Commission has previously approved proposals for the listing and trading of options on ETFs based on international indexes as well as global indexes (*e.g.,* based on non-U.S. and U.S. component stocks).[22] In approving Commodity-Based Trust Shares for equities exchange trading, the Commission thoroughly considered the structure of the Commodity-Based Trust Shares, their usefulness to investors and to the markets, and SRO rules that govern their trading. The Exchange believes that allowing the listing of options overlying Commodity-Based Trust Shares that are listed pursuant to Commission approval on equities exchanges and applying Rule 19b–4(e) [23] should fulfill the intended objective of that rule by allowing options on those Commodity-Based Trust Shares that have satisfied the generic listing standards to commence trading, without the need for the public comment period and Commission approval. The proposed rule change has the potential to significantly reduce the time frame and costs associated with bringing options on Commodity-Based Trust Shares to market, thereby reducing the burden on issuers and other market participants, while also promoting competition among options exchanges, to the benefit of the investing public. The failure of a particular Commodity-Based Trust Share to comply with the generic listing standards under Rule 19b–4(e) [24] would not, however, preclude the Exchange from submitting a separate filing pursuant to Section 19(b)(2),[25] requesting Commission approval to list and trade options on a particular Commodity-Based Trust Share.

The Exchange believes that the proposed rule change would promote transparency surrounding the listing process for options on Commodity-Based Trust Shares. Exchange listing standards play a critical role in ensuring transparency in the market. Adopting objective criteria, such as those that would be applicable for the listing and trading of options on Commodity-Based Trust Shares would help investors to make informed decisions about which options to invest in and would provide a level of transparency that is essential for a well-functioning market.

The Exchange also believes that the standards for listing and trading options

[13] *See* NYSE Arca Rule 5.4–O(k).

[14] Pursuant to NYSE Arca Rule 6.8–O, Commentary .05 and .06, Commodity-Based Trust Shares are subject to the same position limits applicable to options on stocks and Exchange-Traded Fund Shares. NYSE Arca Rule 6.9–O stipulates that exercise limits for options on stocks and other securities, including Commodity-Based Trust Shares, shall be the same as the position limits applicable under NYSE Arca Rule 6.8–O.

[15] *See* NYSE Arca Rules 4.15–O(a)—4.16–O(d), the Exchange's rules governing margin.

[16] OPRA is a securities information processor registered in accordance with Section 11A(b) of the Exchange Act. OPRA's members consist of the national securities exchanges that have been approved by the Commission to provide markets for the listing and trading of exchange-traded securities options.

[17] *See* NYSE Arca Rule 5.3–O(g)(2), the Exchange's rule governing the applicable CSSA requirements for options on exchange-traded funds. The Exchange notes that any non-U.S. component securities (including fixed-income) in an index or portfolio of securities on which Exchange-Traded Fund Shares are based that are not subject to comprehensive surveillance agreements may in the aggregate represent an amount equal to 50% of the weight of the index or portfolio.

[18] A complete list of the current members of the ISG, is available at *http://www.isgportal.org.*

[19] Last sale reports and quotations are the core of the information that OPRA disseminates. OPRA also disseminates certain other types of information with respect to the trading of options on the markets of the OPRA participants, such as the number of options contracts traded, open interest and end of day summaries. OPRA also disseminates certain kinds of administrative messages.

[20] 17 CFR 240.19b–4(e).

[21] *See* Securities Exchange Act Release No. 54739 (November 9, 2006), 71 FR 66993 (November 17, 2006) (SR–AMEX–2006–78) (approval order relating to generic listing standards for ETFs based on international or global indexes).

[22] *See, e.g.,* Securities Exchange Act Release Nos. 56778 (November 9, 2007), 72 FR 65113 (November 19, 2007) (SR–AMEX–2007–100) (approval order to list and trade options on iShares MSCI Mexico Index Fund; and 55648 (April 19, 2007), 72 FR 20902 (April 26, 2007) (SR–AMEX–2007–09) (approval order to list and trade options on Vanguard Emerging Markets ETF). *See also* Securities Exchange Act Release Nos. 50189 (August 12, 2004), 69 FR 51723 (August 20, 2004) (SR–AMEX–2001–05) (approving the listing and trading of certain Vanguard International Equity Index Funds); and 44700 (August 14, 2001), 66 FR 43927 (August 21, 2001) (SR–2001–34) (approving the listing and trading of series of the iShares Trust based on foreign stock indexes).

[23] 17 CFR 240.19b–4(e).

[24] *Id.*

[25] 15 U.S.C. 78s(b)(2).

on Commodity-Based Trust Shares are reasonably designed to promote a fair and orderly market for such securities. As ETFs have grown in popularity, so has the ability to trade options on them. The Exchange believes the proposed rule change will benefit investors and market participants generally by shortening the time to list and trade options on Commodity-Based Trust Shares that have been approved by the Commission by not requiring the Exchange to submit a separate proposed rule change. The Exchange believes that the proposed rule change will facilitate the listing and trading of options on additional ETFs that will enhance competition among market participants, to the benefit of investors and the marketplace.

2. Statutory Basis

The Exchange believes that its proposed rule change is consistent with Section 6(b) of the Act [26] in general, and furthers the objectives of Section 6(b)(5) of the Act [27] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanisms of a free and open market and a national market system. In particular, the proposed rule change has the potential to reduce the time frame for bringing options on Commodity-Based Trust Shares to market, thereby reducing the burdens on issuers and other market participants, while also promoting competition among options exchanges, to the benefit of the investing public. The Exchange believes that enabling the listing and trading of options on Commodity-Based Trust Shares without requiring a rule filing under Section 19(b) of the Act [28] would remove impediments to and perfect the mechanism of a free and open market and a national market system.

The Exchange believes the proposed rule change will also result in increased competition as other exchanges will likely adopt an identical rule to the one proposed by the Exchange that would allow the listing and trading of options on Commodity-Based Trust Shares that are approved for trading on those other markets. Multiple listing of ETFs, options and other securities and competition are some of the central features of the national market system. The Exchange believes that the proposal would encourage a more open market and national market system based on competition and multiple listing.

The proposed rule change adds an additional listing mechanism for certain qualifying options on ETFs to be listed on the Exchange in a manner that is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the general public.

The Exchange further believes that the proposed rules applicable to trading pursuant to generic listing and trading criteria, together with the Exchange's surveillance procedures applicable to trading in the securities covered by the proposed rules, serve to remove impediments to and perfect the mechanism of a free and open market and a national market system.

The Exchange has an adequate surveillance program in place to detect manipulative trading in options on Commodity-Based Trust Shares. The Exchange represents that it and OPRA have the necessary systems capacity to support new options series that would be listed and traded pursuant to this proposed rule change.

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. To the contrary, the Exchange believes that the proposal is, as discussed, pro-competitive and is a competitive response to the Exchange's inability to list options on Commodity-Based Trust Shares without submitting a separate proposed rule change. The Exchange believes the proposed rule change will result in additional investment options and opportunities to achieve the investment objectives of market participants seeking efficient trading and hedging vehicles, to the benefit of investors, market participants, and the marketplace in general. Competition is one of the principal features of the national market system. The Exchange believes that this proposal will expand competitive opportunities to list and trade products on the Exchange as noted.

The Exchange does not believe the proposal will impose any burden on intra-market competition, as all market participants will be treated in the same manner under this proposal. Additionally, the Exchange does not believe the proposal will impose any burden on inter-market competition, as nothing prevents the other options exchanges from proposing similar rules to list and trade options on Commodity-Based Trust Shares. In fact, the Exchange believes other options exchanges will adopt an identical rule so that they may also list and trade options on Commodity-Based Trust Shares without submitting a separate proposed rule change.

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

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be 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–2024–06 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–2024–06. 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

[26] 15 U.S.C. 78f(b).

[27] 15 U.S.C. 78f(b)(5).

[28] 15 U.S.C. 78s(b).

submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 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–2024–06 and should be submitted on or before February 15, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[29]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024–01391 Filed 1–24–24; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–385, OMB Control No. 3235–0441]

Submission for OMB Review; Comment Request; Extension: Rule 18f–3

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (''Paperwork Reduction Act''), the Securities and Exchange Commission (''the Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for extension of the previously approved collection of information discussed below.

Rule 18f–3 (17 CFR 270.18f–3) under the Investment Company Act of 1940 (15 U.S.C. 80a–1 *et seq.*) exempts from section 18(f)(1) and 18 (f)(i) a fund that issues multiple classes of shares representing interests in the same portfolio of securities (a ''multiple class fund'') if the fund satisfies the conditions of the rule. In general, each class must differ in its arrangement for shareholder services or distribution or both, must pay the related expenses of that different arrangement, and must satisfy certain voting rights provisions. The rule includes one requirement for the collection of information. A multiple class fund must prepare, and fund directors must approve, a written plan setting forth the separate arrangement and expense allocation of each class, and any related conversion features or exchange privileges (''rule 18f–3 plan''). Approval of the plan must occur before the fund issues any shares of multiple classes and whenever the fund materially amends the plan. In approving the plan, the fund board, including a majority of the independent directors, must determine that the plan is in the best interests of each class and the fund as a whole.

The requirement that the fund prepare and directors approve a written rule 18f–3 plan is intended to ensure that the fund compiles information relevant to the fairness of the separate arrangement and expense allocation for each class, and that directors review and approve the information. Without a blueprint that highlights material differences among classes, directors might not perceive potential conflicts of interests when they determine whether the plan is in the best interests of each class and the fund. In addition, the plan may be useful to Commission staff in reviewing the fund's compliance with the rule.

The following estimates of average burden hours are made solely for purposes of the Paperwork Reduction Act of 1995[1] and are not derived from a comprehensive or even representative survey or study of the cost of Commission rules and forms. Compliance with the information collection requirements of rule 18f–3 is necessary to obtain the benefit of the rule's exemption. The collection of information under rule 18f–3 is mandatory. Responses to the collection of information requirements will not be kept confidential.

TABLE 1—RULE 18f–3 PRA ESTIMATES

	Internal annual burden	Wage rate[1]	Internal time costs
ESTIMATES FOR RULE 18F–3			
Prepare and approve a written 18f–3 plan[2] ...	6 hours[3].		
Average number of responses annually per registrant.	0.5 responses[3].		
Total number of hours per registrant per year[4].	3 hours[3]	$484 (in-house attorney). $4,770 (fund board of directors)[6]	$936,056 (in-house attorney). $4,612,590 (board of directors)[7].
Total number of registrants	967[4].		
Total annual hour burden	2,901 hours[5]	.....	$5,548,646[8].

Notes:

1. The Commission's estimates of the relevant wage rates are based on salary information for the securities industry compiled by the Securities Industry and Financial Markets Association's *Office Salaries in the Securities Industry 2013;* the estimated figures are modified by firm size, employee benefits, overhead, and adjusted to account for the effects of inflation; *see* Securities Industry and Financial Markets Association, Report on Management & Professional Earnings in the Securities Industry 2013.
2. The Commission estimates that each registrant prepares and approves a rule 18f–3 plan every two years when issuing a new fund or class or amending a plan (or that 484 of all 967 registrants prepare and approve a plan each year).
3. This estimate assumes that each response will take 6 hours, requiring 3 hours per registrant per year (0.5 responses per registrant × 6 hours per response = 3 hours per registrant).
4. The Commission estimates that there are approximately 6,733 multiple class funds offered by 967 registrants.
5. 967 registrants × 3 hours = 2,901 hours.
6. The estimate for the cost of board time is derived from estimates made by the staff regarding typical board size and compensation that is based on information received from fund representatives and publicly available sources; the $4,770 per hour estimate for a fund board of directors was last adjusted for inflation through 2019,and assumes an average of 9 board members per board.

[29] 17 CFR 200.30–3(a)(12).

[1] 44 U.S.C. 3501 *et seq.*

7. This estimate assumes that two-thirds (1,934) of the internal hours are spent by in-house attorneys to prepare the plan (1,934 hours × $484 estimated hourly rate = $936,056 per year) and that one-third (967) are spent by the fund's board of directors to approve the plan (967 hours × $4,770 per hour = $4,612,590).
8. $936,056 + $4,612,590 = $5,548,646.

The information provided under rule 18f–3 will not be kept confidential. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The public may view background documentation for this information collection at the following website: *www.reginfo.gov.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice by February 26, 2024 to (i) *MBX.OMB.OIRA.SEC_desk_officer@omb.eop.gov* and (ii) David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o John Pezzullo, 100 F Street NE, Washington, DC 20549, or by sending an email to: *PRA_Mailbox@sec.gov.*

Dated: January 22, 2024.

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024–01437 Filed 1–24–24; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99404; File No. SR–FINRA–2024–004]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of a Proposed Rule Change To Amend FINRA Rule 6730 (Transaction Reporting) To Reduce the 15-Minute TRACE Reporting Timeframe to One Minute

January 19, 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 11, 2024, the Financial Industry Regulatory Authority, Inc. (''FINRA'') 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 FINRA. 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

FINRA is proposing to amend FINRA Rule 6730 to reduce the 15-minute TRACE reporting timeframe to one minute, with exceptions for member firms with *de minimis* reporting activity and for manual trades.

The text of the proposed rule change is available on FINRA's website at *http://www.finra.org,* at the principal office of FINRA 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, FINRA 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. FINRA 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

(i) Background

FINRA has collected and disseminated transaction information in fixed income securities through TRACE since 2002.[3] Since the implementation of TRACE, the fixed income markets have changed dramatically, including a significant increase in the use of electronic trading platforms or other electronic communication protocols to facilitate the execution of transactions. With these changes, FINRA has been considering ways to modernize the reporting rules and provide for more timely, granular and informative data to enhance the value of disseminated transaction data.

FINRA rules specify the applicable outer-limit reporting timeframe for different types of TRACE-Eligible Securities,[4] and these timeframes have been adjusted over time in line with changes in the markets. A 15-minute outer-limit reporting timeframe currently applies to most transactions[5] in corporate bonds, agency debt securities,[6] asset-backed securities (ABS)[7] and agency pass-through mortgage-backed securities (MBS) traded to-be-announced (TBA) for good delivery (GD).[8] The 15-minute reporting

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 43873 (January 23, 2001), 66 FR 8131 (January 29, 2001) (Order Approving File No. SR–NASD–99–65).

[4] ''TRACE-Eligible Security'' means a debt security that is United States (U.S.) dollar-denominated and is: (1) issued by a U.S. or foreign private issuer, and, if a ''restricted security'' as defined in Securities Act Rule 144(a)(3), sold pursuant to Securities Act Rule 144A; (2) issued or guaranteed by an Agency as defined in paragraph (k) or a Government-Sponsored Enterprise as defined in paragraph (n); (3) a U.S. Treasury Security as defined in paragraph (p); or (4) a Foreign Sovereign Debt Security as defined in paragraph (kk). ''TRACE-Eligible Security'' does not include a debt security that is a Money Market Instrument as defined in paragraph (o). *See* Rule 6710(a).

[5] A ''List or Fixed Offering Price Transaction,'' as defined in Rule 6710(q), and a ''Takedown Transaction,'' as defined in Rule 6710(r) are required to be reported to TRACE by the next business day (T+1). *See* Rule 6730(a)(2).

[6] ''Agency Debt Security'' means a debt security (i) issued or guaranteed by an Agency as defined in paragraph (k); (ii) issued or guaranteed by a Government-Sponsored Enterprise as defined in paragraph (n); or (iii) issued by a trust or other entity that was established or sponsored by a Government-Sponsored Enterprise for the purpose of issuing debt securities, where such enterprise provides collateral to the trust or other entity or retains a material net economic interest in the reference tranches associated with the securities issued by the trust or other entity. The term excludes a U.S. Treasury Security as defined in paragraph (p) and a Securitized Product as defined in paragraph (m), where an Agency or a Government-Sponsored Enterprise is the Securitizer as defined in paragraph (s) (or similar person), or the guarantor of the Securitized Product. *See* Rule 6710(l).

[7] ''Asset-Backed Security'' means a type of Securitized Product where the Asset-Backed Security is collateralized by any type of financial asset, such as a consumer or student loan, a lease, or a secured or unsecured receivable, and excludes: (i) a Securitized Product that is backed by residential or commercial mortgage loans, mortgage-backed securities, or other financial assets derivative of mortgage-backed securities; (ii) an SBA-Backed ABS as defined in paragraph (bb) traded To Be Announced as defined in paragraph (u) or in a Specified Pool Transaction as defined in paragraph (x); and (iii) a collateralized debt obligation. *See* Rule 6710(cc).

[8] ''Agency Pass-Through Mortgage-Backed Security'' means a type of Securitized Product issued in conformity with a program of an Agency as defined in paragraph (k) or a Government-Sponsored Enterprise (GSE) as defined in paragraph (n), for which the timely payment of principal and interest is guaranteed by the Agency or GSE, representing ownership interest in a pool (or pools) of mortgage loans structured to ''pass through'' the principal and interest payments to the holders of the security on a pro rata basis. *See* Rule 6710(v). ''To Be Announced'' (TBA) means a transaction in

timeframe has been in place for corporate bonds since 2005, and later was implemented for agency debt, ABS, and MBS TBA GD.[9]

Thus, today, transactions in these securities are generally required to be reported as soon as practicable[10] but no later than 15 minutes from the time of execution, and FINRA publicly disseminates information on the transaction immediately upon receipt.[11] As discussed in more detail below, FINRA has found that 82.9 percent of trades in the TRACE-Eligible Securities that are currently subject to the 15-minute outer-limit reporting timeframe were reported within one minute of execution. In light of the technological advances in the intervening 18 years since FINRA first adopted the 15-minute reporting requirement, including the increase in electronic trading, and consistent with FINRA's longstanding goals of increasing transparency and improving access to timely transaction data, FINRA is proposing updates to modernize the reporting timeframes and provide timelier transparency. FINRA will continue to assess its TRACE reporting requirements and member reporting and consider whether any adjustments to the one-minute requirement are warranted.

an Agency Pass-Through Mortgage-Backed Security as defined in paragraph (v) or an SBA-Backed ABS as defined in paragraph (bb) where the parties agree that the seller will deliver to the buyer a pool or pool(s) of a specified face amount and meeting certain other criteria but the specific pool or pool(s) to be delivered at settlement is not specified at the Time of Execution, and includes TBA transactions ''for good delivery'' (GD) and TBA transactions ''not for good delivery'' (NGD). *See* Rule 6710(u).

[9] In 2004, FINRA (then NASD) reduced the timeframe for reporting corporate bonds to within 15 minutes of the time of execution. *See* Securities Exchange Act Release No. 49845 (June 14, 2004), 69 FR 35088 (June 23, 2004) (Order Approving File No. SR–NASD–2004–057); *see* also Notice to Members 04–51 (July 2004). Agency debt has been subject to the 15-minute reporting timeframe since it became TRACE-Eligible in 2010. *See* Securities Exchange Act Release No. 60726 (September 28, 2009), 74 FR 50991 (October 2, 2009) (Order Approving File No. SR–FINRA–2009–010); *see also* Regulatory Notice 09–57 (September 2009). MBS TBA GD became subject to the 15-minute reporting timeframe in 2013, and the reporting timeframe for ABS was reduced to 15 minutes in 2015. *See* Securities Exchange Act Release No. 66829 (April 18, 2012), 77 FR 24748 (April 25, 2012) (Order Approving File No. SR–FINRA–2012–020); Securities Exchange Act Release No. 71607 (February 24, 2014), 79 FR 11481 (February 28, 2014) (Order Approving File No. SR–FINRA–2013–046); *see also* Regulatory Notices 12–26 (May 2012) and 14–34 (August 2014).

[10] In 2015, the SEC approved amendments to FINRA rules to require firms to report transactions in TRACE-Eligible Securities as soon as practicable. *See* Securities Exchange Act Release No. 75782 (August 28, 2015), 80 FR 53375 (September 3, 2015) (Order Approving File No. SR–FINRA 2015–025).

[11] FINRA Rule 6730(a)(1) sets forth the requirements for when trades executed during different time periods throughout the day must be reported to TRACE. Currently, corporate, agency, ABS, and MBS TBA GD transactions executed on a business day at or after 12:00:00 a.m. Eastern Time (ET) through 7:59:59 a.m. ET must be reported the same day, no later than 15 minutes after the TRACE system opens. Transactions executed on a business day at or after 8:00:00 a.m. ET through 6:29:59 p.m. ET must be reported as soon as practicable, but no later than 15 minutes of the Time of Execution, except for transactions executed on a business day less than 15 minutes before 6:30 p.m. ET, which must be reported no later than 15 minutes after the TRACE system opens the next day (and, if reported on T+1, designated ''as/of'' with the date of execution). Finally, transactions executed on a business day at or after 6:30:00 p.m. ET through 11:59:59 p.m. ET, or trades executed on a Saturday, a Sunday, a federal or religious holiday, or other day on which the TRACE system is not open at any time during that day, must be reported on the next business day, no later than 15 minutes after the TRACE system opens (and must be designated ''as/of'' and include the date of execution).

(ii) Proposed Rule Change To Implement One-Minute Reporting

FINRA is proposing amendments to Rule 6730 (Transaction Reporting) to reduce the trade reporting timeframe for securities currently subject to the 15-minute reporting outer limit to one minute, with exceptions for member firms with *de minimis* reporting activity and for manual trades, discussed further below. As is the case today, FINRA would make information on the transactions publicly available immediately upon receipt of the trade reports.

Under existing Rule 6730(a)(1), transactions in corporate bonds, agency debt, ABS, and MBS TBA GD generally must be reported as soon as practicable, but no later than within 15 minutes of execution. Specifically, transactions executed on a business day at or after 12:00:00 a.m. ET through 7:59:59 a.m. ET must be reported the same day no later than 15 minutes after the TRACE system opens. Transactions executed on a business day at or after 8:00:00 a.m. ET through 6:29:59 p.m. ET must be reported no later than within 15 minutes of the Time of Execution, except for transactions executed on a business day less than 15 minutes before 6:30 p.m. ET, which must be reported no later than 15 minutes after the TRACE system opens the next day (and, if reported on T+1, designated ''as/of'' with the date of execution). Finally, transactions executed on a business day at or after 6:30:00 p.m. ET through 11:59:59 p.m. ET, or trades executed on a Saturday, a Sunday, a federal or religious holiday, or other day on which the TRACE system is not open at any time during that day, must be reported on the next business day no later than 15 minutes after the TRACE system opens (and must be designated ''as/of'' and include the date of execution).

To provide more timely information about transactions in corporate bonds, agency debt, ABS, and MBS TBA GD, subject to the exceptions discussed below and as provided in Rule 6730(a)(2), FINRA is proposing to amend Rule 6730(a)(1) to reduce the trade reporting timeframe as follows. Amended Rule 6730(a)(1) would provide that transactions must be reported as soon as practicable, but no later than within one minute of the Time of Execution.[12] Amended Rule 6730(a)(1)(B) would require that a transaction executed on a business day at or after 8:00:00 a.m. ET through 6:29:59 p.m. ET must be reported as soon as practicable, but no later than one minute from the Time of Execution, except that, a transaction executed on a business day less than one minute before 6:30:00 p.m. ET, must be reported no later than 15 minutes after the TRACE system opens the next business day (T+1) (and, if reported on T+1, designated ''as/of'' with the date of execution). Any trades executed on a business day prior to the open of the TRACE system, on a business day at or after 6:30:00 p.m. ET through 11:59:59 p.m. ET, or on a Saturday, a Sunday, a federal or religious holiday or other day on which the TRACE system is not open at any time during that day would continue to be reportable as soon as practicable on the next business day (T+1), but no later than within 15 minutes after the TRACE system opens (and must be designated ''as/of,'' as appropriate, and include the date of execution).

(iii) Exceptions From One-Minute Reporting

FINRA is proposing two exceptions from the one-minute reporting timeframe for: (1) member firms with ''limited trading activity'' in the TRACE-Eligible Securities that are subject to one-minute reporting; and (2) manual trades.[13]

[12] Under Rule 6710(d), the ''Time of Execution'' generally means the time when the parties to a transaction agree to all of the terms of the transaction that are sufficient to calculate the dollar price of the trade. For transactions involving TRACE-Eligible Securities that are trading ''when issued'' on a yield basis, the ''Time of Execution'' is when the yield for the transaction has been agreed to by the parties to the transaction.

[13] FINRA is also proposing a conforming amendment to Supplementary Material .03 to refer to the Rule generally rather than ''paragraph (a)'' to reflect that members reporting pursuant to one of the exceptions in new Supplementary Material .08 and .09 are still required to report their trades ''as soon as practicable.''

Exception for Members With ''Limited Trading Activity''

New Supplementary Material .08 would provide an exception to the one-minute reporting timeframe for members with ''limited trading activity.'' A member with ''limited trading activity'' would be defined as a member that, during one of the prior two calendar years, reported to TRACE fewer than 4,000 transactions in the TRACE-Eligible Securities that are subject to paragraphs (a)(1)(A) through (a)(1)(D) of Rule 6730 (*i.e.,* corporate bonds, agency debt, ABS and MBS TBA GD), including any manual trades. Supplementary Material .08(b) would require members relying on the exception to confirm annually their qualification for the exception.[14] As outlined in Supplementary Material .08(c), members qualifying for the exception would be required to report these trades as soon as practicable, but no later than within 15 minutes of the Time of Execution (or in the case of a trade executed outside of TRACE system hours, less than 15 minutes before 6:30 p.m. ET, or on a Saturday, a Sunday, a federal or religious holiday, or other day on which the TRACE system is not open at any time during that day, as soon as practicable, but no later than within 15 minutes after the TRACE system opens the next business day (T+1)).

Members that exceeded the 4,000-trade threshold two calendar years in a row would be required to comply with the one-minute reporting requirements of paragraphs (a)(1)(A) through (a)(1)(D) of the Rule beginning 90 days after the firm no longer meets the criteria for the exception (*i.e.,* beginning 90 days after January 1 of the next calendar year). If a member's reporting activity subsequently dropped below the 4,000-trade threshold, the member would once again be eligible for the exception. For example, a member that reported 3,000 trades in the relevant TRACE-Eligible Securities to TRACE in 2022 and then 4,150 trades in 2023 would continue to be eligible for the exception in 2024; however, if the member then reported 4,100 trades in 2024, the member would be required to comply with the one-minute reporting requirements starting 90 days after January 1, 2025 (with January 1 being day one of 90). If the member proceeded to report 3,500 trades in 2025, the member would once again be eligible for the exception from one-minute reporting for 2026 under the two-year lookback. FINRA believes that the two-year lookback period for eligibility for the exception will accommodate fluctuations in trading activity that may be due to unusual market-wide events or unique client demands.

Manual Trades Exception

New Supplementary Material .09 would provide an exception for manual trades that would afford firms additional time to report transactions that are not electronic from end to end, as described further below. Where a trade qualifies for the manual trades exception, a 15-minute outer limit would apply for the first year following implementation; a 10-minute outer limit would apply for the second year; and a five-minute outer limit would apply thereafter.

The manual trades exception would apply narrowly only to ''transactions that are manually executed'' or where a ''member must manually enter any of the trade details or information necessary for reporting the trade through the TRAQS website or into a system that facilitates trade reporting to TRACE.'' Thus, a trade that requires manual intervention at any point to complete the trade execution or reporting process would qualify for the manual trades exception. In that regard, while an exhaustive list cannot be provided here, FINRA contemplates that the exception would be available for a variety of situations that meet the specified criteria, including, for example:

- where a member executes a trade[15] by manual or hybrid means, such as by telephone, email, or through a chat/messaging function,[16] and subsequently must manually enter into a system that facilitates trade reporting all or some of the information required to book the trade and report it to TRACE;
- where allocations to individual accounts must be manually input in connection with a trade by a dually-registered broker-dealer/investment adviser;
- where an electronic trade is subject to manual review for risk management or regulatory compliance purposes and, as part of or following the review, the trade must be manually approved, amended, or released before the trade is reported to TRACE (*e.g.,* a firm's risk management procedures require a secondary approver for trades over a certain threshold; a firm's best execution procedures require manually checking another market to confirm that a better price is not available to the customer);
- where a member trades a bond for the first time and additional manual steps are necessary to set the bond up in the firm's systems to book and report the trade (*e.g.,* entering the CUSIP number and associated bond data into the firm's system); and
- where a member agrees to trade a basket of securities at a single price and manual action is required to calculate the price of component securities in the basket or to book and report the trade in component securities to TRACE.

The above examples are illustrative of the types of circumstances in which, due to the manual nature of components of the trade execution or reporting process, reporting a transaction within one minute of the Time of Execution may be unfeasible, even where a member makes reasonable efforts to report the trade as soon as practicable (as required). FINRA also will assess members' trade reporting in connection with manual trades to determine whether the five-minute trade reporting timeframe (to become applicable after two years) is appropriate, and will be prepared to make adjustments, as necessary.

FINRA has extensive experience and data regarding members' historic behaviors reporting transactions to TRACE under a myriad of scenarios. FINRA will be reviewing the use of the manual trades exception—members may not, in any case, purposely delay the execution or reporting of a transaction by handling any aspect of a trade manually or introducing manual steps following the Time of Execution. Additionally, in light of the overarching obligation to report trades as soon as practicable, members should consider the types of transactions in which they regularly engage and whether they can reasonably reduce the time between a trade's Time of Execution and its reporting, and more generally must make a good faith effort to report their trades as soon as practicable.

In addition, FINRA proposes to amend Rule 6730(d)(4) to require that any member that executes or reports a trade manually append a manual trade

[14] Evidence of this confirmation should be retained as part of the member's books and records; however, members eligible for the exception will not need to take affirmative steps to have their trade reports processed pursuant to the exception's 15-minute reporting timeframe (*e.g.,* members eligible for the exception will not need to submit a certification of eligibility to FINRA or add a modifier or indicator to their trade reports).

[15] As noted above, for purposes of Rule 6730, the reporting timeframe is measured from the Time of Execution as defined by Rule 6710(d), which generally refers to the time that the parties have agreed to all of the terms of the transaction sufficient to calculate the dollar price of the trade (or yield, in the case of when-issued securities priced to a spread).

[16] FINRA reminds members of their obligation to retain these electronic communications as part of their books and records, consistent with FINRA and SEC recordkeeping requirements. *See, e.g.,* Notice to Members 03–33 (July 2003).

indicator to the trade report so that FINRA can identify manual trades. The new manual trade indicator would be required regardless of whether the member reported the manual trade outside of the one-minute timeframe in reliance on the manual trades exception, which would provide FINRA with important insights into manual trading and the use of the exception. The manual trade indicator would be used for regulatory purposes and would not be included in the TRACE data publicly disseminated.

Finally, FINRA is proposing to amend Rule 6730(f) to provide that a pattern or practice of late reporting may be considered conduct inconsistent with high standards of commercial honor and just and equitable principles of trade, in violation of Rule 2010, absent ''reasonable justification'' (in addition to the rule's existing reference to ''exceptional circumstances'').[17] FINRA believes that the addition of ''reasonable justification'' as a relevant factor in FINRA's evaluation of a firm experiencing a pattern or practice of late reporting is appropriate given the proposed reduction in the trade reporting timeframe; [18] for example, to enable FINRA to determine that reasonable justification exists due to circumstances that could not reasonably be anticipated or prevented and that could not be resolved by the firm within the one minute reporting timeframe.[19] However, members must have sufficiently robust systems with adequate capability and capacity to enable them to report in accordance with FINRA rules; thus, recurring systems issues in a member firm's or a vendor's systems would not be considered reasonable justification or exceptional circumstances under Rule 6730(f) to excuse a pattern or practice of late trade reporting.[20]

If the Commission approves the proposed rule change, FINRA will announce the effective date of the proposed rule change in a *Regulatory Notice.*

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[21] which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market, and, in general, to protect investors and the public interest.

FINRA believes that reducing the reporting timeframe to as soon as practicable, but no later than within one minute from the time of execution for corporate, agency, ABS and MBS TBA GD transactions helps achieve the purposes of the Act. As discussed above, the 15-minute reporting timeframe has been in place for corporate bonds and agency debt securities since 2005. Since that time, the fixed income markets have changed dramatically, including a significant increase in the use of electronic trading platforms or other electronic communication protocols to facilitate the execution of transactions. With these changes, FINRA has been considering ways to modernize the rule and provide for more timely, granular and informative data to enhance the value of disseminated transaction data. FINRA believes that the proposed rule change helps achieve the purposes of the Act in that it will improve the timeliness of information reported to TRACE, thereby benefiting transparency and allowing investors and other market participants to obtain and evaluate more timely pricing information for these securities. FINRA also believes that the proposed exceptions from the one-minute reporting requirement for members with *de minimis* reporting activity and manual trades are appropriate in that they are tailored to balance the burdens on members with the benefits to transparency.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA 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.

Economic Impact Assessment

FINRA has undertaken an economic impact assessment, as set forth below, to further analyze the regulatory need for the proposed rule change, its potential economic impacts, including anticipated costs, benefits, and distributional and competitive effects, relative to the current baseline, and the alternatives considered in assessing how best to meet its regulatory objective.

[17] *See, e.g.,* Rule 6623 describing ''exceptional circumstances'' as instances of system failure by a member or service bureau, or unusual market conditions, such as extreme volatility in a security, or in the market as a whole.

[18] This proposed rule change would also make Rule 6730(f) consistent with other FINRA trade reporting rules that impose shorter reporting timeframes. *See, e.g.,* Rule 6622(a)(4).

[19] As is the case today, late trade statistics regarding trades reported outside of the applicable timeframe would be reflected in the Report Cards available to members. FINRA would update its Report Cards to take into consideration the proposed exception for firms with *de minimis* reporting activity and for manual trades. In addition, FINRA plans to enhance its TRACE Report Cards to include metrics that will facilitate members' ability to track their eligibility for the *de minimis* exception. While these trade statistics will continue to be available to members on their TRACE Report Cards, these statistics are not publicly available.

[20] *See, e.g.,* FINRA Trade Reporting Frequently Asked Questions, Q206.21 available at *https://www.finra.org/filing-reporting/market-transparency-reporting/trade-reporting-faq.*

[21] 15 U.S.C. 78*o*–3(b)(6).

As described below in more detail, approximately 83 percent of transactions in TRACE-Eligible Securities currently subject to the 15-minute reporting timeframe are reported within one minute of execution. However, there is significant variation in reporting timeframes within and across member firms of different sizes and across different products. The proposed *de minimis* and manual trades exceptions balance the benefits of timelier reporting with the potential costs of disrupting markets and disproportionally impacting less active and smaller participants. FINRA estimates that, as a result of this proposed rule change, after adjusting for the proposed *de minimis* exception, up to 16.4 percent of current annual trading volume, or 6.1 million trades and 20 trillion dollars in par value, might potentially be reported faster (this represents an upper end estimate—impacted by the extent to which firms do or do not rely on the proposed manual trades exception with respect to such trades (manual trades are not currently identifiable as such in TRACE data)).[22]

Regulatory Need

As discussed previously, over the last 18 years there have been significant advancements in the fixed income markets, and in recognition of those advancements, FINRA is proposing to reduce the TRACE trade reporting timeframe for transactions in all TRACE-Eligible Securities that currently are subject to a 15-minute reporting timeframe. Timelier reporting provides more timely transaction information to the market, supporting more effective price formation and potentially decreasing trading costs and increasing liquidity.

Economic Baseline

The economic baseline stems from current Rule 6730, establishing a reporting requirement of as soon as practicable but no later than within 15 minutes of the Time of Execution. Factors that may affect the speed with which firms can report executions include, but are not limited to, security characteristics, recency of trading in a particular security, trading platform, execution method, reporting process and level of automation.

Overall, in 2022 838 member firms reported trades in TRACE-Eligible Securities currently subject to the 15-minute reporting timeframe, with 803, 443, 79, 216 and 173 member firms reporting trades in corporate bonds, agency debt, MBS TBA GD, equity-linked notes (ELNs) and ABS respectively.[23] FINRA found that 83 percent of trades across TRACE-Eligible Securities currently subject to the 15-minute reporting timeframe were reported within one minute of execution. Examining reporting times for these securities by individual reporters, FINRA found that within one minute: 43 percent of reporters submitted 75 percent of their trades; 34 percent of reporters submitted 85 percent of their trades; and 18 percent of reporters submitted 95 percent of their trades.

Specifically, FINRA analyzed trade reporting times by dealers and alternative trading systems (ATSs) under the current 15-minute reporting timeframe using TRACE data from January 2022 through December 2022.[24] The analysis measured the time between the trade Time of Execution and report time (and in cases where reports were later corrected or canceled, to the time of the initial report). The analysis focused on transactions executed at or after 8:00 a.m. ET and before 6:15 p.m. ET on business days, the time window during which trades must be reported on that day as soon as practicable, but no later than within 15 minutes of the Time of Execution.[25] The sample excluded covered depository institutions' trade reports in MBS TBA GD and agency-issued fixed income securities, as they are subject to the Federal Reserve's rule rather than FINRA's rule.[26]

Reporting Times Across Products

FINRA examined the distribution of trade reports from one to 15 minutes from the Time of Execution for corporate bonds, agency debt, MBS TBA GD, ELNs and ABS.[27] Table 1 shows that corporate bonds and MBS TBA GD were, on average, reported the fastest among the products, with around 83 and 84 percent of the trades reported within one minute, respectively. Agency debt followed closely behind at 81 percent. ELNs were at 67 percent and ABS were at 52 percent of trades reported within one minute. Commenters, discussion with FINRA advisory committees, and outreach to members indicated that ELNs and ABS trading and reporting frequently involve manual handling of some aspect of the trade execution or reporting process.

TABLE 1—REPORTING TIMES ACROSS PRODUCT TYPES

Minutes from execution	All products (%)	Corporate (%)	Agency (%)	MBS TBA GD (%)	ELN (%)	ABS (%)
1	82.9	83.1	80.7	84.1	66.5	51.5
2	91.7	91.7	92.4	93.8	70.9	66.9
3	96.1	96.3	94.9	95.8	74.8	75.2
4	97.0	97.3	96.0	96.7	76.3	80.5
5	97.6	97.8	96.6	97.3	77.3	85.1
10	99.0	99.2	98.8	98.6	80.7	93.2
15	99.4	99.5	99.2	99.5	81.8	97.6
Share of Reports	100.0	88.9	2.8	7.4	0.5	0.3

Reporting Time by Trade Size

FINRA examined whether reporting timeframes differ across trade sizes. For certain products, large trades are more likely to be more complex or a voice trade, or otherwise require manual handling. FINRA examined the distribution of trade reports from one to 15 minutes from the Time of Execution

[22] *See* Discussion: Economic Impacts, Anticipated Benefits.

[23] FINRA aggregated reports across MPIDs (market participant identifier) belonging to the same CRD (central registration depository) number and excluded covered depository institutions.

[24] All analysis used this sample period unless otherwise specified.

[25] *See supra* note 11.

[26] Covered depository institutions started to report to TRACE on September 1, 2022. In the first three quarters of 2023, reports by covered depository institutions represented 6.6 percent, 0.8 percent and 0.7 percent of the total MBS TBA GD, agency debt and ABS trade reports, respectively.

[27] Corporate bond trades represented 88.9 percent of the 37,252,591 total reports in the sample while MBS TBA GD, agency debt, ELN and ABS accounted for 7.4 percent, 2.8 percent, 0.5 percent, and 0.3 percent, respectively.

for trades with a par value of less than $1 million, greater than or equal to $1 million but less than $5 million, greater than or equal to $5 million but less than $10 million, greater than or equal to $10 million but less than $25 million, and greater than or equal to $25 million. Panel A of Table 2 shows that approximately 93 percent of reported trades were for less than $5 million, with 74 to 84 percent reported within one minute and 95 to 98 percent reported within five minutes. Similarly, for trades greater than or equal to $5 million, 77 to 81 percent were reported within one minute and 95 to 96 percent were reported within five minutes.

Panel B of Table 2 shows that, for corporate bonds and agency debt, smaller trades were reported faster while larger trades took longer to report. FINRA found that 84 percent of corporate bond trades smaller than $1 million were reported within one minute whereas 62 percent of trades greater than or equal to $25 million were reported within one minute. For agency debt, 84 percent of trades smaller than $1 million were reported within one minute whereas 44 percent of trades greater than or equal to $25 million were reported within one minute. Trade size did not appear to be strongly associated with reporting time for other products.[28]

TABLE 2—REPORTING TIME ACROSS TRADE SIZE

Minutes from execution	<$1M (%)	$1–<$5M (%)	$5–<$10M (%)	$10–<$25M (%)	>=$25M (%)
Panel A: Reporting Time by Trade Size (Par Value Traded)					
1	84.1	74.3	81.0	77.3	81.0
2	92.7	83.8	89.0	87.3	91.9
3	96.8	91.0	93.7	92.6	94.6
4	97.6	93.3	95.2	94.3	95.7
5	98.0	94.8	96.2	95.4	96.4
10	99.2	97.9	98.4	97.9	98.3
15	99.4	98.9	99.2	99.1	99.2
Share of reports	84.1	9.3	3.2	1.5	1.9
Panel B: Percentages of Trades Reported Within One Minute by Trade Size (Par Value Traded)					
Product:					
Corporate	84.3	73.1	65.8	64.8	61.7
Agency	83.6	62.6	56.0	50.8	44.2
MBS TBA GD	80.4	80.9	90.1	84.1	82.0
ELN	66.6	62.8	61.0	57.9	61.5
ABS	53.5	48.2	47.8	48.7	49.6

Reporting Time by Reporter Activity Level

FINRA compared trade reporting times across firms with different levels of activity to assess how the potential burdens stemming from the proposed rule change would be distributed across firms. The analysis measured reporters' activity by number of trades in 2022 and assigned them to three activity groups: where a reporter's trades accounted for less than 0.01 percent, 0.01 through 0.1 percent, or greater than 0.1 percent of total reported trades.[29] Table 3 shows that the distribution of par value traded was concentrated in more active reporters. Eighty-four different reporters were in the most active group (accounting for over 0.1 percent of reported trades each), and together their activity represented 95.5 percent of the total par value traded. There were 149 different reporters with 0.01 to 0.1 percent of reported trades each and their reports accounted for 4.2 percent of the total par value traded. The last activity group had 605 different reporters with less than 0.01 percent of reported trades each and together their activity represented 0.3 percent of the par value traded.

TABLE 3—REPORTING TIMES BY REPORTER ACTIVITY LEVEL

Reporter activity level	Number of reporters	Market share (trade counts) (%)	Market share (par value) (%)	Trades reported within one minute (%)	Reporters reporting at least 95% of trades within one minute (%)	Trades reported within five minutes (%)	Reporters reporting at least 95% of trades within five minutes (%)
Activity Group 1—Reporters with >0.1% of Trade Counts	84	94.1	95.5	84.0	34.5	98.0	86.9
Activity Group 2—Reporters with 0.01 to 0.1 of Trade Counts	149	4.9	4.2	67.7	14.8	91.7	55.7
Activity Group 3—Reporters with <0.01 of Trade Counts	605	0.9	0.3	50.8	17.0	86.2	48.6
All Reporters	838	100.0	100.0	82.9	18.4	97.6	53.7

On average, the most active trade reporters reported their trades to TRACE more quickly. Specifically, 84 percent of trades executed by the most active reporters (with more than 0.1 percent of reported trades) were reported within

[28] MBS TBA GD trades represented 96 percent of the trades larger than $25M and 82 percent of them were reported within one minute.

[29] FINRA looked at finer distinctions of reporter activity level, but it did not yield additional insight.

one minute, and 98 percent of their trades were reported within five minutes. In comparison, approximately 51 percent of trades executed by reporters with less than 0.01 percent of reported trades were reported within one minute, and 86 percent were reported within five minutes. FINRA notes that even less-active reporters reported at least some material portion of their trades within one minute.

In addition, FINRA examined the reporting times by individual reporters by measuring the percentage of firms that reported at least 95 percent of their trades within one minute. Overall, approximately 18 percent of reporters submitted 95 percent of their trades within one minute. When examined by reporter activity level, 35 percent of reporters with greater than 0.1 percent of trade reports submitted 95 percent of their trades within one minute, compared to 17 percent of reporters with less than 0.01 percent of trade reports. FINRA notes that most firms reported some material portion of their trades after one minute, regardless of their level of trading activity.

Reporting Time for After Hours Trades

FINRA examined trades that were executed during TRACE system hours and compared the findings to trades that were executed outside of these hours, which are subject to different reporting timeframe requirements. Table 4 shows that trades executed and reported after hours represented only 1.18 percent of total par value. In all cases, these trades took longer to report. For instance, less than 21 percent of trades executed between 6:15 and 6:29 p.m. ET were reported within one minute,[30] while just over 49 percent of trades executed between 6:29 p.m. and 8:00 a.m. ET the next day or on non-business days were reported within one minute after the TRACE system opened.[31]

TABLE 4—REPORTING TIMES BY TIME OF DAY

Minutes from execution	Time group 1: 8:00 a.m. to 6:15 p.m. ET (%)	Time group 2: 6:15 p.m. to 6:29 p.m. ET (%)	Time group 3: before 8:00 a.m. or after 6:29 p.m. ET or non-business day * (%)
1	82.9	20.9	49.2
2	91.7	26.3	81.4
3	96.1	36.7	90.4
4	97.0	57.1	92.9
5	97.6	71.9	93.9
10	99.0	96.2	96.6
15	99.4	96.2	96.8
Share of Reports	98.8	0.0	1.2

* For time group three, for trades before 8:00 a.m. ET, FINRA measured the reporting time from TRACE opening on the same business day; for trades after 6:29 p.m. ET or on non-business day, FINRA measured the reporting time from TRACE opening on the next business day.

Execution and Trade Reporting Scenarios

FINRA examined several trading scenarios, described further below, where trading or reporting could involve manual processes.

When a bond starts to trade, the security may not be on the member firm's security master (or on FINRA's security master), which requires firms to engage in a set-up process to facilitate execution or trade reporting. FINRA examined the reporting time for bonds when they first start to trade in the secondary market. Table 5 shows that in the three-day period after secondary market trading commenced in a newly issued bond, 63 percent of trades were reported within one minute, as compared to 83 percent for trades executed more than three days after the first trade. Longer reporting times were associated with the commencement of secondary market trading in newly issued bonds, but not in cases where a firm first started to trade a bond that was not new to market (but where the firm had not previously traded the security).

TABLE 5—REPORTING OF TRADES IN NEWLY ISSUED BONDS

Minutes from execution	First three days of S1 trading (%)	All other days (%)
1	63.1	83.3
2	77.3	91.9
3	83.5	96.3
4	86.3	97.2
5	88.0	97.8
10	92.0	99.1
15	93.5	99.5
Share of Reports	1.7	98.3

[30] Under the current rule, these trades can be reported either on the same day before TRACE closes or the next business day no later than 15 minutes after the TRACE system opens. Under the proposed rule change, such trades must be reported as soon as practicable on the same day, but no later than within one minute of the time of execution.

[31] Under the current and proposed rules, these trades must be reported as soon as practicable, but no later than 15 minutes after the TRACE system opens.

FINRA examined transaction reporting times for self-cleared trades as well as those cleared through third-party clearing firms and found that trades that are cleared through third-party clearing firms overall took longer to report. For trades cleared through a third party, 71 percent were reported within one minute, as compared to 85 percent for self-cleared trades. FINRA found that trades through some third-party clearing firms were reported as fast as self-cleared trades. There were also significant variations in trade reporting time by correspondent firms through the same third-party clearing firm.

TABLE 6—THIRD-PARTY CLEARING

Minutes from execution	Third party clearing (%)	Self-clearing (%)
1	71.4	85.2
2	91.9	91.6
3	96.0	96.1
4	97.1	97.0
5	97.7	97.6
10	99.1	99.0
15	99.4	99.4
Share of Reports	16.5	83.5

FINRA examined transaction reporting times for trades that were subsequently suballocated across multiple accounts and found that, for allocated trades,[32] 68 percent were reported within one minute, as compared to 84 percent for other trades. FINRA found significant variation in reporting time for allocated trades by different reporters.[33]

TABLE 7—ALLOCATED TRADES

Minutes from execution	Allocation (%)	Non-allocation (%)
1	68.2	83.7
2	86.6	92.0
3	90.6	96.4
4	92.2	97.3
5	93.0	97.8
10	97.7	99.1
15	99.0	99.4
Share of Reports	5.2	94.8

FINRA examined transaction reporting times for basket or portfolio trades and found that overall, these trades take longer to report. For portfolio trades,[34] 65 percent were reported within one minute, as compared to 85 percent for other trades. Within five minutes, 97.5 percent of portfolio trades were reported, as compared to 97.7 percent for other trades. FINRA also examined the reporting time by portfolio size. While larger baskets do tend to be reported more slowly, FINRA observed a range of reporting times for portfolio trades within the same basket size band—for example, 57.0 percent of portfolio trades in the 300–1,000 securities band are reported within one minute and 20.1 percent of portfolio trades in the 1,000+ securities band are reported within one minute.[35] There were also significant variations in the reporting time of portfolio trades by different reporters. This suggests that other factors (*e.g.,* the technology employed) besides the size of the portfolio trade may be driving the reporting timeframe.

TABLE 8—PORTFOLIO TRADES

Minutes from execution	Portfolio trade (%)	Non-portfolio trade (%)
1	65.3	85.0
2	83.1	92.8
3	94.2	96.4
4	96.5	97.2

[32] An allocation flag does not exist in TRACE, so FINRA used heuristics to identify those trades.

[33] Five out of 29 reporters that reported allocation trades were able to report 90 percent of their allocation trades within one minute. Seven more were able to report 90 percent of their allocation trades within five minutes.

[34] FINRA used heuristics to identify portfolio trades since a portfolio trade identifier did not exist before May 15, 2023.

[35] Over 99 percent of portfolio trades include a basket of less than 1,000 securities and the vast majority—nearly 85 percent—are baskets of less than 300 securities. Of the nearly 85 percent of portfolio trades for baskets of less than 300 securities, over 97.9 percent of these are reported within five minutes; 96.9 percent of portfolio trades for baskets of between 300 and 1,000 securities are reported within five minutes; and 40.0 percent of the 0.69 percent of portfolio trades larger than 1,000 securities are reported within five minutes.

TABLE 8—PORTFOLIO TRADES—Continued

Minutes from execution	Portfolio trade (%)	Non-portfolio trade (%)
5	97.5	97.7
10	99.1	99.1
15	99.5	99.4
Share of Reports	9.5	90.5

FINRA analyzed the number of transactions executed on or through an ATS, which approximates a subset of electronically executed and reported transactions. ATS trades represented 28.1 percent of total trade reports during the sample period. Of those, 81.0 percent were reported within one minute and 93.9 percent were reported within two minutes. For non-ATS trades, which represented 71.9 percent of total reports (some of which may qualify for the phased-in five-minute reporting timeframe available for manual trades), 83.7 percent were reported within one minute and 96.9 percent were reported within five minutes.

TABLE 9—ATS TRADES

Minutes from execution	ATS trade (%)	Non-ATS trade (%)
1	81.0	83.7
2	93.9	90.8
3	98.7	95.1
4	99.1	96.2
5	99.3	96.9
10	99.7	98.7
15	99.8	99.2
Share of Reports	28.1	71.9

Economic Impacts

Anticipated Benefits

The proposed reporting timeframe reduction would require members to adopt enhancements to their current trade reporting processes to facilitate timelier reporting for transactions that currently are not reported within one minute (in 2022, 82.9 percent of the trades executed after 8:00 a.m. and before 6:15 p.m. E.T. were reported within one minute of execution). The proposed rule change therefore likely would result in quicker reporting and thus dissemination of transaction information for at least a portion of the approximately 17 percent of transactions that are not currently reported within one minute of execution. FINRA estimates that, after adjusting for the proposed *de minimis* exception, up to 16.4 percent, or 6.1 million trades and 20 trillion dollars in par value annually, might potentially be reported faster than today (these estimates would be adjusted further to account for manual trades—to the extent firms rely on the proposed exception with respect to such trades—which FINRA is currently unable to identify in the TRACE data).

FINRA analyzed the number of transactions executed on or through an ATS, which approximates a subset of electronically executed and reported transactions for which the manual trades exception will not be applicable. ATS trades represented 28.1 percent of total reports during the sample period. Of those, 81.0 percent were reported within one minute and 93.9 percent were reported within two minutes. This indicates that the proposed rule change will likely result in at least an additional 5.3 percent (28.1 percent × (1 − .81)) of total trades being reported within one minute (not accounting for the impact of the proposed *de minimis* exception). For the 71.9 percent non-ATS trades (some of which may qualify for the manual trades exception), 96.9 percent were reported within five minutes. This indicates that the proposed rule change will likely result in at least another 2.2 percent (71.9 percent × (1 − .969)) of total trades being reported within five minutes in three years (not accounting for the impact of the proposed *de minimis* exception).[36]

A reduction in the time between trade execution and price dissemination would enhance transparency in the fixed income market and is consistent with the purposes of TRACE. Timelier reporting would allow FINRA to provide more timely pricing and other transaction information to the market, which supports more efficient price formation. Timely reporting has also been shown to increase dealer market-making activities in the municipal markets.[37] While members may benefit

[36] FINRA also examined the reporting time for trades that were manually entered into the TRACE system through the TRAQS web interface rather than through the automated messaging protocol. The median time for web entry is four to five minutes.

[37] In the municipal bond market, research has shown that customer trade costs measured as effective spread decreased after the 2005 change in the trade reporting time requirement, which was from the end of a trading day to 15 minutes after execution. To the extent that more timely reporting may have a similar impact on other fixed income markets, FINRA expects that shortening the reporting timeframe would reduce customer trading costs. Timely reporting has also been shown to increase dealer market-making activities in the municipal markets, indicated by an increase in the overnight and over-the-week dealer capital committed to inventory, an increase in the number of dealers involved in completing a round-trip transaction, and more round-trip transactions that involve inventory taking. No similar studies were done in the corporate bond market, possibly due to the fact that the previous reporting timeframe reduction for corporate bonds coincided with other TRACE rule changes, so the effect was difficult to isolate. *See* Erik R. Sirri, Report on Secondary Market Trading in the Municipal Securities Market, July 2014 (Research Paper, Municipal Securities Rulemaking Board), *https://www.msrb.org/sites/default/files/2022-09/MSRB-Report-on-Secondary-Market-Trading-in-the-Municipal-Securities-Market.pdf;* John Chalmers, Yu (Steve) Liu & Z. Jay Wang, The Differences a Day Makes: Timely Disclosure and Trading Efficiency in the Muni Market, 139(1) Journal of Financial Economics 313–335 (2021).

directly from the expedited price discovery, investors are also likely to benefit from better execution prices from members. In particular, the proposed rule change would aid investors and other market participants in obtaining and evaluating pricing and other market information more quickly. For example, FINRA identified trades that fell into the one to 15-minute window after a prior trade of the same bond but executed before the prior trade was reported. These trades could have potentially benefited from the knowledge of the material terms of the prior (as yet unreported) trade had the prior trade been reported within one minute instead of 15 minutes.[38] For corporate bonds, these trades represented 1.6 percent of the sample reports or 3.4 percent of par value (not accounting for the impact of the proposed *de minimis* or manual trades exceptions).

Large trades took longer on average to report than smaller trades. Large trades may also have a greater impact on the direction of the market. To the extent the proposed rule change results in faster dissemination of pricing information for large trades, the market could benefit from earlier access to information that could be more indicative of market movement.[39]

Anticipated Costs

FINRA believes that the proposed rule change would likely result in direct and indirect costs for members to implement changes to their processes and systems for reporting transactions to TRACE within the new timeframes. While members currently using a third-party reporting service may incur less costs, as these costs will likely be borne largely by the third-party reporting service which may spread the costs across all of the reporting firms using its services, those firms that do not currently use a third-party reporting service may opt to do so if the costs would be lower than building or augmenting their own system. However, as discussed above, FINRA proposes to provide relief for members with respect to manual trades and for members with *de minimis* reporting activity, which should mitigate these costs. All members that execute or report a trade manually would incur costs to append the manual trade indicator.

Most firms reported some material portion of their trades after one minute. This is true even for very active firms that may have a more sophisticated trade reporting infrastructure in place. For these trades, members may incur costs to modify their reporting systems and procedures to report more quickly and to monitor that the trades are reported in the required timeframe. The costs may be mitigated by the proposed relief for members with respect to manual trades and for members with *de minimis* reporting activity.

Given current differences in access to trading and reporting technologies across firms, some firms may be impacted by the proposed rule change more than others. FINRA understands that larger and more active firms already employ reporting services and technologies to automate trade reporting and would be better positioned to absorb the costs of the proposal. Any impact on competition is likely to be limited, given the proposed exceptions described above. In particular, the *de minimis* exception would provide relief for those members for which the technological changes required may be more significant relative to their level of activity in this space. Based on 2022 data, the proposed *de minimis* threshold would provide relief to 640 (out of 838 currently active) members that, in the aggregate, accounted for 1.41 percent of trades or 0.43 percent of the total par value traded.

Additionally, given trading in the fixed income products covered by the proposed rule change in many instances continues to involve manual intervention at some point to complete the trade execution or reporting process (*e.g.,* trades executed by telephone, email, or chat or trades subject to manual review), requiring these trades to be reported in one minute could negatively impact market efficiency and competition. For example, customers might participate less in fixed income markets without the availability of voice brokerage services, or if these trades were pushed to electronic platforms, trading may become concentrated among fewer member firms, potentially reducing trading opportunities and liquidity. FINRA believes that the five-minute exception for manual trades, coupled with the phase-in period, will allow firms relying upon some manual components in their trading or reporting process to continue to trade in these markets while complying with the new requirements, and therefore limit the potential for a negative impact on these markets.

Some firms close to exceeding the *de minimis* threshold may choose to reduce the number of trades to qualify for the exception. However, this may only happen infrequently given the two-calendar year lookback period. Coupled with the fact that members can again qualify for the exception and that members under the *de minimis* threshold accounted for only a very small portion of the market volume, FINRA expects that the impact on overall trading will be minimal. FINRA notes that as markets evolve or firms adjust to the new requirements, the number of dealers meeting the *de minimis* exception and the par value of their trades may change over time, even if the threshold for qualifying for the exception remains the same.

Members qualifying for the *de minimis* exception will be exempted from the one-minute requirement for all of their trade reports, and therefore will not incur costs to modify their reporting procedures and systems to report more quickly. On the other hand, the proposed relief for manual trades will likely apply to only some reports of a firm. Thus, members that do not qualify for the *de minimis* exception—depending upon the circumstances—would be required to incur costs to comply with the five-minute reporting requirement for manual trades and one-minute reporting requirement for other trades. All members that execute or report a trade manually would be required to append the manual trade indicator, and members relying on the manual trades exception would be required to document their eligibility for the relief.

Depending on the relative costs of investing in systems to report in a timelier manner, members may opt to change their practices around executing and reporting trades to comply in ways other than improving the reporting process, and such modifications might have implications for the way in which a member operates its business and manages competing tasks. Members may also be reluctant to conduct trades for which it will be difficult to comply with the shortened reporting timeframe instead of making system changes necessary to comply. However, any indirect costs incurred as a result are bounded by the costs of improving the reporting process. FINRA expects that members will choose to improve their reporting process if it is more cost effective than other compliance approaches. The cost effectiveness of improving the reporting process through

[38] The analysis excluded trades by a reporter that was also a party to the prior trade.

[39] Faster reporting of large trades may also level the information playing field in the market between dealers and other investors. Research shows that investors obtained economically large cost reductions on offsetting trades of a block position by dealers that occurred after, relative to before, the report of the block trade. *See* Stacey E. Jacobsen & Kumar Venkataraman, Asymmetric Information and Receiving Investor Outcomes in the Block Market for Corporate Bonds (March 23, 2023), available at SSRN: *https://ssrn.com/abstract=4398494* or *http://dx.doi.org/10.2139/ssrn.4398494*.

direct investment is likely positively correlated with the percentage of a firm's trades subject to the shortened reporting timeframes. Those firms that find it less cost effective—because a small number of trades will be impacted—are more likely to qualify for the *de minimis* exception.

Alternatives Considered

FINRA considered requiring members to report trades as soon as practicable but no later than five minutes from execution. In 2022, 82.9 percent of trades were reported within one minute after a trade execution. By comparison, in 2022 more than 97.6 percent of trades were reported in five minutes or less. Accordingly, reducing the required reporting time to as soon as practicable but no later than five minutes would enhance the timeliness of up to only 2.4 percent of the trades as compared to 17.1 percent by moving to no later than one minute. FINRA believes a five-minute reporting requirement would not meaningfully advance the immediacy of information transparency for market participants.

FINRA considered several alternatives to the threshold for the *de minimis* trading exception from the one-minute reporting requirement. First, FINRA considered basing the relief on the par value traded rather than the number of trade reports. A par value-based *de minimis* exception would require even less-active dealers to meet the one-minute reporting requirement if they engaged in significant aggregate dollar volume trading and thus this approach could result in more large trades being subject to the one-minute reporting requirement. However, FINRA believes that the number of trade reports submitted over the period is a more appropriate measurement. The number of trade reports tracks more closely the costs that firms incur when reporting and the necessary investments in speeding up their reporting. Additionally, the proposed exception (using the proposed 4,000-trade report threshold) would only impact a *de minimis* percent of par value traded. FINRA also considered a combination of the par value and the number of trades as the threshold for the *de minimis* exception, but that would have unnecessarily increased the complexity of the exception. FINRA also considered basing the exception on different levels of trading activity, for example, up to 10,000 trades. However, FINRA determined that a threshold above 4,000 trades would result in the loss of more timely information from members that trade significant volumes (74 members reporting between 4,000 and 10,000 trades traded more than $1 billion par value, with the highest par value traded being $452 billion). Accordingly, FINRA believes that the scope of the proposed one-minute requirement will apply to firms that are active participants in the relevant TRACE-Eligible Securities and should be required to implement the reporting changes. Therefore, the proposed threshold for the *de minimis* exception (less than 4,000 trades during one of the prior two calendar years) will ensure that markets receive more timely information from more active firms.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

FINRA solicited comment on a proposal to reduce the 15-minute reporting timeframe to one minute in *Regulatory Notice* 22–17 (August 2022). Forty-four comments were received in response to the *Regulatory Notice.* A copy of the *Regulatory Notice* is available on FINRA's website at *http://www.finra.org.* A list of the comment letters received in response to the *Regulatory Notice* is available on FINRA's website.[40] Copies of the comment letters received in response to the *Regulatory Notice* are also available on FINRA's website. Three commenters expressed overall support for the proposal,[41] while other commenters expressed concerns about the proposal. The comments are summarized below.

Small Firm Impact

Commenters expressed concerns that implementation of the proposal would be costly for all member firms,[42] but many commenters expressed particular concern that small member firms, including many minority, women, and veteran-owned broker-dealers, would be the most burdened by the implementation costs.[43] Commenters believed that these firms would be most affected by the change (and stated that a significant portion of their trades are not already reported within or near one-minute) and would have fewer resources to make changes needed to meet the new timeframe.[44] Some of these commenters expressed concern that many small broker-dealers would exit the market for fixed income secondary market trading because of the high implementation and compliance costs, harming the smaller retail investors that depend on small member firms for access to the market.[45]

To address these concerns, as described above, FINRA is proposing to provide an exception for members with *de minimis* reporting activity. FINRA believes that this exception, which would except firms with fewer than 4,000 transactions in the TRACE-Eligible Securities subject to paragraphs (a)(1)(A) through (a)(1)(D) of Rule 6730, is calibrated to provide relief to firms that engage in limited activity in the TRACE-Eligible Securities subject to the proposed one-minute reporting timeframe, and therefore may not have systems in place that would enable reporting within one minute. Member firms with ''limited trading activity'' as defined in proposed Supplementary Material .08(a) would continue to be subject to the 15-minute outer limit reporting timeframe.

Reporting Feasibility

Commenters identified several circumstances under which the nature of the execution or reporting process may make it unfeasible to report within one minute. In particular, commenters argued that manually executed or reported trades,[46] including large trades that must then be manually allocated to multiple subaccounts [47] and some complex transactions that involve multiple securities,[48] cannot feasibly be reported within one-minute. Some commenters argued that reducing the reporting timeframe to one minute in these instances would threaten the viability of these types of trades, negatively impacting liquidity [49] and harming the retail investors, who may not be accustomed to electronic trading, serviced by these firms.[50] Commenters also raised other scenarios that they believe present operational obstacles to

[40] *See* SR–FINRA–2024–004 (Form 19b–4, Exhibit 2b) for a list of abbreviations assigned to commenters (available on FINRA's website at *http://www.finra.org*). Commenters Anonymous, Barrientos, Coker, Dapena, Kienbaum, Moise, Purpura, Rogan, Seinfeld, Sosa, Steichen, and Tovar are collectively referred to as ''Individual Commenters.'' Commenter Crescent expressed its support of ASA's letter, which is referenced specifically below.

[41] *See* Dimensional; FIA PTG; HMA.

[42] *See* ASA; BDA; Beech; Colliers; Falcon Square; HJS; ICE Bonds; InspereX; ISC; NatAlliance; RBI; SIFMA; UPitt Clinic; Wiley.

[43] *See* Arkadios; ASA; BDA; Beech; Colliers; Falcon Square; IBI 1 and 2; Individual Commenters; InspereX; ISC; NatAlliance; RBI; SIFMA; UPitt Clinic; VFM; Wiley.

[44] *See* Arkadios; BDA; Beech; Colliers; Falcon Square; IBI 1 and 2; InspereX; Individual Commenters; ISC; NatAlliance; RBI; SIFMA; UPitt Clinic; VFM; Wiley.

[45] *See* Arkadios; BDA; IBI 1 and 2; Individual Commenters; ISC; SIFMA; UPitt Clinic; VFM.

[46] *See* ASA; BDA; Beech; BMO CM; Cambridge; FIF; HJS; HTD; IBI 1 and 2; ICI; InspereX; ISC; Lynch; SAMCO; Seaport; SIFMA; Wells Fargo; Wiley; WMBAA.

[47] *See* BDA; BetaNXT; SIFMA; Wells Fargo.

[48] *See* SAMCO; SIFMA; Wells Fargo.

[49] *See* IBI 1; ICI; SIFMA.

[50] *See* HJS; IBI 2; ISC; SIFMA.

reporting trades within one minute, such as where the security is not already in the firm's security master (or on FINRA's master list) due to the set-up process (internally or with FINRA),[51] as well as trades executed when the TRACE system is not open that must be reported within one minute after the TRACE system re-opens the next trading day.[52]

With respect to commenters' concern that certain types of transactions cannot feasibly be reported within one minute, FINRA believes that the exception for manual trades included in the proposed rule change will adequately address these concerns. New Supplementary Material .09 would phase in a five-minute reporting standard for trades that involve manual intervention in the execution or reporting process. This exception would address commenters' concern that reducing the reporting timeframe to one minute would threaten the viability of manual trades. Similarly, based on feedback from commenters and outreach to members, FINRA understands that other types of trades raised by commenters, such as some allocation trades and portfolio or list trades, may involve manual intervention in either the execution or reporting process[53] and, if so, would therefore qualify for the manual trades exception's extended reporting timeframe. In that regard, 96.9 percent of non-ATS trades are already reported within five minutes; 97.5 percent of portfolio trades are already reported within five minutes; and 93 percent of allocation trades are already reported within five minutes. The phase-in period from implementation is intended to provide members with time to implement a reasonable process to comply with the reduced reporting timeframe with respect to their manual trades. Trades that do not qualify for the manual trades exception must be reported as soon as practical but no later than within one minute of the time of execution. As discussed above, FINRA has observed a range of reporting times for portfolio trades within the same basket size band[54] and similar variation in reporting times for allocation trades depending on the reporter.[55] This suggests that even large portfolio and allocation trades can be reported within one minute and other factors (*e.g.,* the technology employed to execute or report the trade) contribute to the reporting timeframe.

Commenters raised additional concerns that other operational obstacles might make reporting trades within one minute unfeasible. As mentioned above, FINRA believes many of the concerns raised should be addressed with the proposed exceptions; however, other instances described by commenters do not appear to warrant an exception. For example, with respect to comments that TRACE reporting through a third-party clearing firm presents an operational obstacle to one minute reporting, FINRA has observed that 71 percent of third-party cleared trades are reported within one minute (as compared to 85 percent for self-cleared trades), and there are significant variations in trade reporting time by correspondent firms through the same third-party clearing firm, which suggests that other factors contribute to the reporting timeframe. FINRA notes that many smaller members rely on their third-party clearing firms to report trades to TRACE. Under the proposed rule change, members with ''limited trading activity'' would continue to be subject to a 15-minute outer limit reporting standard.

With respect to trades in securities that are not already in the member firm's security master (or on FINRA's master list), FINRA believes that the proposed rule change's exception for manual trades should help alleviate commenters' concerns. FINRA understands that setting up a security in a firm's security master (or with FINRA) typically involves manual intervention. Thus, initial trades in such securities—where manual steps must be taken to set up the security at the firm or with FINRA before the trade(s) can be booked or reported—would be subject to the phased-in five-minute reporting standard for manual trades rather than the one-minute standard. In addition, in response to commenters' concern regarding trades reportable to FINRA on the next business day, FINRA is proposing to retain a reporting timeframe of as soon as practicable but no later than within 15 minutes of when the TRACE system opens.

Market Impact

While some commenters argued that the benefits associated with shortening the timeframe for trade reporting have not been sufficiently explained,[56] FINRA agrees with other commenters that the proposed rule change will increase transparency,[57] which has historically been shown to improve price discovery and reduce trading costs.[58] FINRA believes that the proposed rule change's exceptions for members with *de minimis* reporting activity and for manual trades will mitigate the potential for the proposed rule change to have a negative impact on liquidity or execution quality.[59] With respect to commenters' concerns that the more rapid dissemination of trades could negatively impact liquidity for block trades[60] and benefit algorithmic traders at the expense of retail and institutional investors,[61] FINRA believes the current trade dissemination caps effectively mitigate these concerns, and note that members already have an obligation under the current Rule to report trades as soon as practicable and are not permitted to delay the reporting (and thus dissemination) of trades.

FINRA recognizes that covered depository institutions will not be subject to the proposed rule change.[62] However, FINRA continues to believe that the proposed rule change is appropriate at this time. First, until recently, covered depository institutions did not report transactions to TRACE at all,[63] and they are not subject to the TRACE reporting requirement for all TRACE-Eligible Securities. In addition, covered depository institutions do not

[51] *See* Anonymous; ASA; BDA; BetaNXT; FIF; SAMCO; SIFMA; Wells Fargo.

[52] *See* FIF; SIFMA. FINRA notes that these trades would not be subject to the one-minute reporting timeframe under the proposed rule change and would continue to be subject to the current 15-minute outer limit.

[53] *See* SAMCO; SIFMA; Wells Fargo.

[54] For example, 57.0 percent of portfolio trades in the 300–1,000 securities band were reported within one minute and 20.1 percent of portfolio trades in the 1,000+ securities band were reported within one minute.

[55] Sixty-eight percent of allocated trades were reported within a minute, with five out of 29 members that reported allocation trades able to report 90 percent of their allocation trades within one minute.

[56] *See* Arkadios; ASA; BDA; Cambridge; Falcon Square; HJS; HTD; IBI 2; InspereX; ISC; RBI; SAMCO; SIFMA; TRADEliance; Wells Fargo.

[57] *See* Dimensional; FIA PTG; HMA.

[58] *See* Discussion: Economic Impacts, Anticipated Benefits.

[59] As discussed above, the proposed rule change's exception for members with ''limited trading activity'' should address commenters' concern that the proposal's implementation costs may cause many small firms to exit the fixed income market, negatively impacting liquidity. *See* Falcon Square; IBI 1 and 2; Individual Commenters; InspereX; ISC; SIFMA; VFM; Wiley. Likewise, FINRA believes that the manual trades exception should address commenters' concerns regarding the continued viability of manual trades and the ability to hedge large trades and trades in thinly traded securities, which FINRA understands are often executed manually. *See* IBI 1; ICI; SIFMA. Similarly, the exception for manual trades would provide an extended reporting timeframe to accommodate manual intervention in the trade execution or reporting process to conduct best execution and fair pricing reviews. *See* ASA; SIFMA.

[60] *See* ICI; SIFMA.

[61] *See* BMO CM; SIFMA; VFM.

[62] *See* InspereX; SIFMA.

[63] Covered depository institutions started to report to TRACE on September 1, 2022. *See* 86 FR 59716, 59717 (October 28, 2021).

report a significant number of trades in agency debt since they began reporting to TRACE.[64] While covered depository institutions are more active in the MBS TBA GD market, this activity has historically been concentrated in a few large institutions. FINRA believes that any potential competitive disadvantage is speculative. On balance, FINRA thinks the proposed rule change is appropriate and should improve the timing of market information.

Other Issues

While the proposed rule change may lead to an increase in reporting errors, corrections, and late reporting rates, particularly at the outset as members adapt to the proposed rule change's new standards,[65] FINRA expects that the impact to members' accuracy and late reporting rates will largely be temporary, as accuracy and timeliness will increase as members adapt to the proposed rule change's new standards. FINRA also intends to provide members with a sufficient implementation timeframe to make the changes necessary to comply with the reduced reporting timeframe (for example, approximately within 18 months from any SEC approval). As stated above, FINRA will announce the effective date of the proposed rule change in a *Regulatory Notice.*

FINRA also believes that the extended reporting timeframes available for members with *de minimis* reporting activity and for manual trades will help mitigate these issues. FINRA likewise believes that the exception for manual trades will help mitigate commenters' concern that errors will be less likely to be corrected within the reporting timeframe as FINRA understands that trade report corrections often involve manual intervention (*e.g.,* a customer calling or instant messaging/chatting to request a change to the trade, which change is then manually made to the trade ticket/booking entry).[66] Under such circumstances, the trade would qualify for the extended reporting timeframe applicable to manual trades.[67] Additionally, in the event a trade report correction cannot be completed within the applicable timeframe, FINRA has historically taken into account whether cancels and corrections are driving untimely reporting and the reason(s) for the cancels and corrections in monitoring members for compliance with the Rule and assessing whether a firm has a ''pattern or practice'' of late reporting. Accordingly, FINRA believes that potential issues related to errors, corrections, and late reporting will not be significant and do not outweigh the proposed rule change's potential benefits.

Finally, commenters also suggested a number of alternatives to the proposal that they believed would improve the TRACE reporting regime, including implementing a phased-in approach to shortening the reporting timeframe,[68] establishing a global securities master list,[69] improving TRACE's web-based reporting interfaces, reducing TRACE system latencies and providing more transparency regarding systems issues that may impact reporting,[70] and providing additional guidance on members' ''as soon as practicable'' reporting obligation and additional TRACE reporting metrics to members.[71] FINRA determined to implement a phased-in approach to reducing the reporting timeframe to five minutes for manual trades in light of commenters' concerns. However, FINRA does not believe that the alternatives proposed by commenters will provide improvements to the TRACE reporting regime similar to those of the proposed rule change. Accordingly, FINRA determined to move forward with the proposal while it also continues to consider other ways to provide more timely, granular and informative data to market participants and enhance the value of disseminated transaction data.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be 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–FINRA–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–FINRA–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 FINRA. 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–FINRA–2024–004 and should be submitted on or before February 15, 2024.

[64] Covered depository institutions' transactions in ABS are limited to SBA-Backed ABS.

[65] *See* Arkadios; BDA; Beech; BMO CM; Cambridge; HJS; HTD; IBI 2; ICI; Individual Commenters; InspereX; SAMCO; Seaport; SIFMA; VFM.

[66] *See* Arkadios; ASA; BDA; Beech; BMO CM; Cambridge; HJS; HTD; ICI; InspereX; SAMCO; Seaport; SIFMA; VFM.

[67] To the extent the trade was originally fully electronic, when the member amends the trade report, it should add the Manual Trade Indicator.

[68] *See* Arkadios; ICE Bonds; ICI; InspereX; TRADEliance; UPitt Clinic; SIFMA; VFM.

[69] *See* SIFMA. For corporate bonds, FINRA has proposed establishing a reference data service for new issues. *See* Securities Exchange Act Release No. 85488 (April 2, 2019), 84 FR 13977 (April 8, 2019) (Notice of Filing of File No. SR–FINRA–2019–008) (Proposed Rule Change to Establish a Corporate Bond New Issue Reference Data Service).

[70] *See* SIFMA.

[71] *See* FIF; SIFMA.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[72]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024–01395 Filed 1–24–24; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–574, OMB Control No. 3235–0648]

Submission for OMB Review; Comment Request; Extension: Rule 498

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (''Paperwork Reduction Act''), the Securities and Exchange Commission (''the Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for extension of the previously approved collection of information discussed below.

Rule 498 (17 CFR 230.498) under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*) (''Securities Act'') permits open-end management investment companies (''funds'') to satisfy their prospectus delivery obligations under the Securities Act by sending or giving key information directly to investors in the form of a summary prospectus (''Summary Prospectus'') and providing the statutory prospectus on a website. Upon an investor's request, funds are also required to send the statutory prospectus to the investor. In addition, under rule 498, a fund that relies on the rule to meet its statutory prospectus delivery obligations must make available, free of charge, the fund's current Summary Prospectus, statutory prospectus, statement of additional information, and most recent annual and semi-annual reports to shareholders at the website address specified in the required Summary Prospectus legend (17 CFR 270.498(e)(1)). A Summary Prospectus that complies with rule 498 is deemed to be a prospectus that is authorized under Section 10(b) of the Securities Act and Section 24(g) of the Investment Company Act of 1940 (15 U.S.C. 80a–1 *et seq.*).

The purpose of rule 498 is to enable a fund to provide investors with a Summary Prospectus containing key information necessary to evaluate an investment in the fund. Unlike many other federal information collections, which are primarily for the use and benefit of the collecting agency, this information collection is primarily for the use and benefit of investors. The information filed with the Commission also permits the verification of compliance with securities law requirements and assures the public availability and dissemination of the information.

Based on an analysis of fund filings, the Commission estimates that approximately 11,241 funds are using a Summary Prospectus. The Commission estimates that the annual hourly burden per fund associated with the compilation of the information required on the cover page or the beginning of the Summary Prospectus is 0.5 hours, and estimates that the annual hourly burden per fund to comply with the website posting requirement is approximately 1 hour, requiring a total of 1.5 hours per fund per year.[1] Thus the total annual hour burden associated with these requirements of the rule is approximately 16,862.[2] The Commission estimates that the annual cost burden is approximately $21,400 per fund, for a total annual cost burden of approximately $240,557,400.[3]

Estimates of the average burden hours are made solely for the purposes of the Paperwork Reduction Act and are not derived from a comprehensive or even a representative survey or study of the costs of Commission rules and forms. Under rule 498, use of the Summary Prospectus is voluntary, but the rule's requirements regarding provision of the statutory prospectus upon investor request are mandatory for funds that elect to send or give a Summary Prospectus in reliance upon rule 498. The information provided under rule 498 will not be kept confidential. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The public may view background documentation for this information collection at the following website: *www.reginfo.gov.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice by February 26, 2024 to (i) *MBX.OMB.OIRA.SEC_desk_officer@omb.eop.gov* and (ii) David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o John Pezzullo, 100 F Street NE, Washington, DC 20549, or by sending an email to: *PRA_Mailbox@sec.gov.*

Dated: January 22, 2024.

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024–01436 Filed 1–24–24; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99396; File No. SR–ISE–2024–03]

Self-Regulatory Organizations; Nasdaq ISE LLC; Notice of Filing of Proposed Rule Change, as Modified by Amendment No. 1, To List and Trade Options on iShares Bitcoin Trust

January 19, 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 9, 2024, Nasdaq ISE, LLC (''ISE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II, below, which Items have been prepared by the Exchange. On January 11, 2024, the Exchange filed Amendment No. 1 to the proposal, which supersedes the original filing in its entirety. The Commission is publishing this notice to solicit comments on the proposed rule change, as modified by Amendment No. 1, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Options 4, Section 3, Criteria for Underlying Securities. This Amendment No. 1 supersedes the original filing in its entirety.

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/ise/rules,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

[72] 17 CFR 200.30–3(a)(12).

[1] 0.5 hours per fund + 1 hour per fund = 1.5 hours per fund.

[2] 1.5 hours per fund x 11,241 funds = 16,862 hours.

[3] $21,400 per fund x 11,241 funds = $240,557,400.

[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 Options 4, Section 3, Criteria for Underlying Securities, to allow the Exchange to list and trade options on iShares Bitcoin Trust (the ''Trust'') [3] as a Unit deemed appropriate for options trading on the Exchange.

Currently, Options 4, Section 3(h) provides that securities deemed appropriate for options trading shall include shares or other securities (''Exchange-Traded Fund Shares'' or ''ETFs'') that are traded on a national securities exchange and are defined as an ''NMS'' stock under Rule 600 of Regulation NMS, and that meet certain criteria specified in Options 4, Section 3(h), including that they:

(i) represent interests in registered investment companies (or series thereof) organized as open-end management investment companies, unit investment trusts or similar entities that hold portfolios of securities and/or financial instruments, including, but not limited to, stock index futures contracts, options on futures, options on securities and indices, equity caps, collars and floors, swap agreements, forward contracts, repurchase agreements and reverse repurchase agreements (the ''Financial Instruments''), and money market instruments, including, but not limited to, U.S. government securities and repurchase agreements (the ''Money Market Instruments'') comprising or otherwise based on or representing investments in broad-based indexes or portfolios of securities and/or Financial Instruments and Money Market Instruments (or that hold securities in one or more other registered investment companies that themselves hold such portfolios of securities and/or Financial Instruments and Money Market Instruments) or

(ii) represent interests in a trust or similar entity that holds a specified non-U.S. currency or currencies deposited with the trust when aggregated in some specified minimum number may be surrendered to the trust or similar entity by the beneficial owner to receive the specified non-U.S. currency or currencies and pays the beneficial owner interest and other distributions on the deposited non-U.S. currency or currencies, if any, declared and paid by the trust (''Currency Trust Shares'') or

(iii) represent commodity pool interests principally engaged, directly or indirectly, in holding and/or managing portfolios or baskets of securities, commodity futures contracts, options on commodity futures contracts, swaps, forward contracts and/or options on physical commodities and/or non-U.S. currency (''Commodity Pool ETFs'') or

(iv) represent interests in the SPDR® Gold Trust, the iShares COMEX Gold Trust, the iShares Silver Trust, or the ETFS Gold Trust or

(v) represents an interest in a registered investment company (''Investment Company'') organized as an open-end management company or similar entity, that invests in a portfolio of securities selected by the Investment Company's investment adviser consistent with the Investment Company's investment objectives and policies, which is issued in a specified aggregate minimum number in return for a deposit of a specified portfolio of securities and/or a cash amount with a value equal to the next determined net asset value (''NAV''), and when aggregated in the same specified minimum number, may be redeemed at a holder's request, which holder will be paid a specified portfolio of securities and/or cash with a value equal to the next determined NAV (''Managed Fund Share'').

In addition to the aforementioned requirements, Options 4, Section 3(h)(1) and (2) must be met to list options on ETFs.[4]

Proposal

The Exchange proposes to expand the list of ETFs that are appropriate for options trading on the Exchange in Options 3, Section 4(h)(iv) to include the Trust.[5]

Description of the Trust [6]

The Shares are issued by the Trust, a Delaware statutory trust. The Trust operates pursuant to a trust agreement (the ''Trust Agreement'') between the Sponsor, BlackRock Fund Advisors (the ''Trustee'') as the trustee of the Trust and Wilmington Trust, National Association, as Delaware trustee (the ''Delaware Trustee''). The Trust issues Shares representing fractional undivided beneficial interests in its net assets. The assets of the Trust consist only of bitcoin, held by a custodian on behalf of the Trust except under limited circumstances when transferred through the Trust's prime broker temporarily (described below), and cash. Coinbase Custody Trust Company, LLC (the ''Bitcoin Custodian'') is the custodian for the Trust's bitcoin holdings, and maintains a custody account for the Trust (''Custody Account''); Coinbase, Inc. (the ''Prime Execution Agent''), an affiliate of the Bitcoin Custodian, is the prime broker for the Trust and maintains a trading account for the Trust (''Trading Account''); and Bank of New York Mellon is the custodian for the Trust's cash holdings (the ''Cash Custodian'' and together with the Bitcoin Custodian, the ''Custodians'') and the administrator of the Trust (the ''Trust Administrator''). Under the Trust Agreement, the Trustee may delegate all or a portion of its duties to any agent, and has delegated the bulk of the day-to-day responsibilities to the Trust Administrator and certain other administrative and record-keeping functions to its affiliates and other agents. The Trust is not an investment company registered under the Investment Company Act of 1940, as amended (the ''1940 Act'').

The investment objective of the Trust is to reflect generally the performance of the price of bitcoin. The Trust seeks to reflect such performance before payment of the Trust's expenses and liabilities. The Shares are intended to constitute a simple means of making an investment similar to an investment in bitcoin through the public securities market rather than by acquiring, holding

[3] The Commission recently approved a rule change to list and trade shares of the Trust pursuant to Rule 5711(d) of The Nasdaq Stock Exchange LLC (''Commodity-Based Trust Shares''). *See* Securities Exchange Act Release No. 99306 (January 10, 2024) (SR–NASDAQ–2023–016) (not yet published) (hereinafter ''SR–NASDAQ–2023–016''). The Exchange represents it would not list options on the Trust unless it satisfied all applicable criteria in Options 4, Section 3.

[4] Options 4, Section 3(h)(1) and (2) state that the Exchange-Traded Fund Shares either (i) meet the criteria and guidelines set forth in paragraphs (a) and (b) described herein; or (ii) the Exchange-Traded Fund Shares are available for creation or redemption each business day from or through the issuing trust, investment company, commodity pool or other entity in cash or in kind at a price related to net asset value, and the issuer is obligated to issue Exchange-Traded Fund Shares in a specified aggregate number even if some or all of the investment assets and/or cash required to be deposited have not been received by the issuer, subject to the condition that the person obligated to deposit the investment assets has undertaken to deliver them as soon as possible and such undertaking is secured by the delivery and maintenance of collateral consisting of cash or cash equivalents satisfactory to the issuer of the Exchange-Traded Fund Shares, all as described in the Exchange-Traded Fund Shares' prospectus. Also, the Exchange-Traded Fund Shares based on international or global indexes, or portfolios that include non-U.S. securities, shall meet the criteria in Options 4, Section 3(h)(2)(A)–(F).

[5] Specifically, the Exchange proposes to amend Options 3, Section 4(h)(iv) to include the name of the Trust to enable options to be listed on the Trust on the Exchange.

[6] *See* SR–NASDAQ–2023–016 for a complete description of the Trust.

and trading bitcoin directly on a peer-to-peer or other basis or via a digital asset exchange. The Shares have been designed to remove the obstacles represented by the complexities and operational burdens involved in a direct investment in bitcoin, while at the same time having an intrinsic value that reflects, at any given time, the investment exposure to the bitcoin owned by the Trust at such time, less the Trust's expenses and liabilities. Although the Shares are not the exact equivalent of a direct investment in bitcoin, they provide investors with an alternative method of achieving investment exposure to bitcoin through the public securities market, which may be more familiar to them.

Custody of the Trust's Bitcoin

An investment in the Shares is backed by bitcoin held by the Bitcoin Custodian on behalf of the Trust. All of the Trust's bitcoin will be held in the Custody Account, other than the Trust's bitcoin which is temporarily maintained in the Trading Account under limited circumstances, *i.e.,* in connection with creation and redemption Basket [7] activity or sales of bitcoin deducted from the Trust's holdings in payment of Trust expenses or the Sponsor's fee (or, in extraordinary circumstances, upon liquidation of the Trust). The Custody Account includes all of the Trust's bitcoin held at the Bitcoin Custodian, but does not include the Trust's bitcoin temporarily maintained at the Prime Execution Agent in the Trading Account from time to time. The Bitcoin Custodian will keep all of the private keys associated with the Trust's bitcoin held in the Custody Account in ''cold storage''.[8] The hardware, software, systems, and procedures of the Bitcoin Custodian may not be available or cost-effective for many investors to access directly.

The Exchange believes that offering options on the Trust will benefit investors by providing them with an additional, relatively lower cost investing tool to gain exposure to spot Bitcoin as well as a hedging vehicle to meet their investment needs in connection with Bitcoin products and positions. Similar to other commodity ETFs in which options may be listed on ISE (*e.g.,* SPDR® Gold Trust, the iShares COMEX Gold Trust, the iShares Silver Trust, or the ETFS Gold Trust),[9] the proposed ETF is a trust that essentially offers the same objectives and benefits to investors.

Options on the Trust will trade in the same manner as options on other ETFs on the Exchange. Exchange Rules that currently apply to the listing and trading of all options on ETFs on the Exchange, including, for example, Rules that govern listing criteria, expirations, exercise prices, minimum increments, position and exercise limits, margin requirements, customer accounts and trading halt procedures, will apply to the listing and trading of options on the Trust on the Exchange. Today, these rules apply to options on the various commodities ETFs deemed appropriate for options trading on the Exchange pursuant to Options 4, Section 3(h)(iv).

The Exchange's initial listing standards for ETFs on which options may be listed and traded on the Exchange will apply to the Trust. The initial listing standard as set forth in Options 4, Section 3(a) provides that:

> Underlying securities with respect to which put or call options contracts are approved for listing and trading on the Exchange must meet the following criteria: (1) the security must be registered and be an ''NMS stock'' as defined in Rule 600 of Regulation NMS under the Exchange Act; and (2) the security shall be characterized by a substantial number of outstanding shares that are widely held and actively traded.

Pursuant to ISE Options 4, Section 3, ETFs on which options may be listed and traded must satisfy the listing standards set forth in Options 4, Section 3(h). Specifically, the Trust must meet either:

> (1) the criteria and guidelines for underlying securities set forth in Options 4, Section 3(h), or
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> (2) it must be available for creation or redemption each business day from or through the issuing trust, investment company, commodity pool or other entity in cash or in kind at a price related to net asset value, and the issuer is obligated to issue Exchange-Traded Fund Shares in a specified aggregate number even if some or all of the investment assets and/or cash required to be deposited have not been received by the issuer, subject to the condition that the person obligated to deposit the investment assets has undertaken to deliver them as soon as possible and such undertaking is secured by the delivery and maintenance of collateral consisting of cash or cash equivalents satisfactory to the issuer of the Exchange-Traded Fund Shares, all as described in the Exchange-Traded Fund Shares' prospectus, or the Exchange-Traded Fund Shares must be based on international or global indexes, or portfolios that include non-U.S. securities, and meet other criteria.

Options on the Trust will also be subject to the Exchange's continued listing standards for options on ETFs set forth in Options 4, Section 4(g). Specifically, options approved for trading pursuant to Options 4, Section 3(h) will not be deemed to meet the requirements for continued approval, and the Exchange shall not open for trading any additional series of option contracts of the class covering such ETFs if the ETFs are delisted from trading as provided in subparagraph (b)(5) of Options 4, Section 4 [10] or the ETFs are halted or suspended from trading on their primary market.[11] In addition, the Exchange shall consider the suspension of opening transactions in any series of options of the class covering ETFs in any of the following circumstances:

> (1) in the case of options covering Exchange-Traded Fund Shares approved pursuant to Options 4, Section 3(h)(A)(i), in accordance with the terms of subparagraphs (b)(1), (2), (3) and (4) of Options 4, Section 4; [12]
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> (2) in the case of options covering Fund Shares approved pursuant to Options 4, Section 3(h)(A)(ii),[13] following the initial twelve-month period beginning upon the commencement of trading in the Exchange-Traded Fund Shares on a national securities exchange and are defined as an ''NMS stock'' under Rule 600 of Regulation NMS [sic], there were fewer than 50 record and/or beneficial holders of such Exchange-Traded Fund Shares for 30 or more consecutive trading days;
>
> (3) the value of the index or portfolio of securities or non-U.S. currency, portfolio of

[7] The Trust issues and redeems Shares only in blocks of 40,000 or integral multiples thereof. A block of 40,000 Shares is called a ''Basket.'' These transactions take place in exchange for bitcoin.

[8] The term ''cold storage'' refers to a safeguarding method by which the private keys corresponding to the Trust's bitcoins are generated and stored in an offline manner, subject to layers of procedures designed to enhance security. Private keys are generated by the Bitcoin Custodian in offline computers that are not connected to the internet so that they are more resistant to being hacked.

[9] *See* ISE Options 4, Section 3(h)(iv).

[10] Options 4, Section 4(b)(5) provides, if an underlying security is approved for options listing and trading under the provisions of Options 4, Section 3(c), the trading volume of the Original Security (as therein defined) prior to but not after the commencement of trading in the Restructure Security (as therein defined), including 'when-issued' trading, may be taken into account in determining whether the trading volume requirement of (3) of this paragraph (b) is satisfied.

[11] *See* Options 4, Section 4(g).

[12] Options 4, Section 4(b)(5)(1) through (4) provides, if: (1) there are fewer than 6,300,000 shares of the underlying security held by persons other than those who are required to report their security holdings under Section 16(a) of the Act, (2) there are fewer than 1,600 holders of the underlying security, (3) the trading volume (in all markets in which the underlying security is traded) has been less than 1,800,000 shares in the preceding twelve (12) months, or (4) the underlying security ceases to be an 'NMS stock' as defined in Rule 600 of Regulation NMS under the Exchange Act. Options 4, Section 3(h)(i) refers to Financial Instruments and Money Market Instruments. In addition, the Exchange proposes to amend the citation to ''Options 4, Section 3(h)(A)(i)'' herein to ''Options 4, Section 3(h)(i).''

[13] Options 4, Section 3(h)(ii) refers to Currency Trust Shares. In addition, the Exchange proposes to amend the citation to ''Options 4, Section 3(h)(A)(ii)'' herein to ''Options 4, Section 3(h)(ii).''

commodities including commodity futures contracts, options on commodity futures contracts, swaps, forward contracts, options on physical commodities and/or Financial Instruments and Money Market Instruments, on which the Exchange-Traded Fund Shares are based is no longer calculated or available; or

(4) such other event occurs or condition exists that in the opinion of the Exchange makes further dealing in such options on the Exchange inadvisable.

Options on the Trust would be physically settled contracts with American-style exercise.[14] Consistent with current Options 4, Section 5, which governs the opening of options series on a specific underlying security (including ETFs), the Exchange will open at least one expiration month for options on the Trust and may also list series of options on the Trust for trading on a weekly [15] or quarterly [16] basis. The Exchange may also list long-term equity option series (''LEAPS'') [17] that expire from twelve to thirty-nine [sic] from the time they are listed.

Pursuant to Options 4, Section 5(d), which governs strike prices of series of options on ETFs, the interval between strike prices of series of options on ETFs approved for options trading pursuant to Section 3(h) of Options 4 shall be fixed at a price per share which is reasonably close to the price per share at which the underlying security is traded in the primary market at or about the same time such series of options is first open for trading on the Exchange, or at such intervals as may have been established on another options exchange prior to the initiation of trading on the Exchange. With respect to the Short Term Options Series or Weekly Program, during the month prior to expiration of an option class that is selected for the Short Term Option Series Program, the strike price intervals for the related non-Short Term Option (''Related non-Short Term Option'') shall be the same as the strike price intervals for the Short Term Option.[18] Specifically, the Exchange may open for trading Short Term Option Series at strike price intervals of (i) $0.50 or greater where the strike price is less than $100, and $1 or greater where the strike price is between $100 and $150 for all option classes that participate in the Short Term Options Series Program; (ii) $0.50 for option classes that trade in one dollar increments and are in the Short Term Option Series Program; or (iii) $2.50 or greater where the strike price is above $150.[19] Additionally, the Exchange may list series of options pursuant to the $1 Strike Price Interval Program,[20] the $0.50 Strike Program,[21] the $2.50 Strike Price Program,[22] and the $5 Strike Program.[23] Options 3, Section 3 governs the minimum increment for bids and offers for both equity and index options. Pursuant to Options 3, Section 3, where the price of a series of options for the Trust is less than $3.00 the minimum increment will be $0.05, and where the price is $3.00 or higher, the minimum increment will be $0.10 [24] consistent with the minimum increments for options on other ETFs listed on the Exchange. Any and all new series of Trust options that the Exchange lists will be consistent and comply with the expirations, strike prices, and minimum increments set forth in Options 4, Section 5 and Options 3, Section 3, as applicable.

Position and exercise limits for options on ETFs, including options on the Trust, are determined pursuant to Options 9, Sections 13 and 15, respectively. Position and exercise limits for ETFs options vary according to the number of outstanding shares and the trading volumes of the underlying ETF over the past six months, where the largest in capitalization and the most frequently traded ETFs have an option position and exercise limit of 250,000 contracts (with adjustments for splits, re-capitalizations, etc.) on the same side of the market; and smaller capitalization ETFs have position and exercise limits of 200,000, 75,000, 50,000 or 25,000 contracts (with adjustments for splits, re-capitalizations, etc.) on the same side of the market. Further, Options 6C, Section 3, which governs margin requirements applicable to the trading of all options on the Exchange including options on ETFs, will also apply to the trading of the Trust options.

The Exchange represents that the same surveillance procedures applicable to all other options on other ETFs currently listed and traded on the Exchange will apply to options on the Trust. Also, the Exchange represents that it has the necessary systems capacity to support the new option series. The Exchange believes that its existing surveillance and reporting safeguards are designed to deter and detect possible manipulative behavior which might potentially arise from listing and trading options on ETFs, including the proposed Trust options.

The Exchange has also analyzed its capacity and represents that it believes the Exchange and the Options Price Reporting Authority or ''OPRA'' have the necessary systems capacity to handle the additional traffic associated with the listing of new series that may result from the introduction of options on the Trust up to the number of expirations currently permissible under the Exchange Rules. Because the proposal is limited to one class, the Exchange believes any additional traffic that may be generated from the introduction of the Trust options will be manageable.

Finally, the Exchange proposes a technical amendment to Options 4, Section 3(h)(iv) to amend the name ''ETFS Gold Trust'' to ''Aberdeen Standard Physical Gold Trust.'' In 2018 this ETF was renamed.[25] At this time, the Exchange proposes to amend the name of the ETF to reflect its current name. The Exchange also proposes to correct two citations in Options 4, Section 4(g). The Exchange proposes to update a citation in Options 4, Section 4(g)(1) from ''Options 4, Section 3(h)(A)(i)'' to ''Options 4, Section 3(h)(i)'' The Exchange also proposes to update a citation in Options 4, Section 4(g)(2) from ''Options 4, Section 3(h)(A)(ii)'' to ''Options 4, Section 3(h)(ii).''

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[26] in general, and furthers the objectives of Section 6(b)(5) of the Act,[27] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with

[14] *See* Options 4, Section 2, Rights and Obligations of Holders and Writers, which provides that the rights and obligations of holders and writers shall be as set forth in the Rules of the Clearing Corporation. *See also* OCC Rules, Chapter VIII, which governs exercise and assignment, and Chapter IX, which governs the discharge of delivery and payment obligations arising out of the exercise of physically settled stock option contracts. OCC Rules can be located at: *https://www.theocc.com/getmedia/9d3854cd-b782-450f-bcf7-33169b0576ce/occ_rules.pdf.*

[15] *See* Supplementary .03 to Options 4, Section 5.

[16] *See* Supplementary .04 to Options 4, Section 5.

[17] *See* Options 4, Section 8.

[18] *See* Supplementary Material .03(e) to Options 4, Section 5.

[19] *Id.*

[20] *See* Supplementary Material .01 to Options 4, Section 5.

[21] *See* Supplementary Material .05 to Options 4, Section 5.

[22] *See* Supplementary Material .02 to Options 4, Section 5.

[23] *See* Supplementary Material .06 to Options 4, Section 5.

[24] Options that are eligible to participate in the Penny Interval Program have a minimum increment of $0.01 below $3.00 and $0.50 above $3.00. *See* Supplementary Material .01 to Options 3, Section 3.

[25] Effective October 1, 2018 ETFS Gold Trust was renamed Aberdeen Standard Gold ETF Trust. *https://www.sec.gov/Archives/edgar/data/1450923/000138713118005292/ex10-2.htm.*

[26] 15 U.S.C. 78f(b).

[27] 15 U.S.C. 78f(b)(5).

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) [28] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes that the proposal to list and trade options on the Trust will remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, protect investors because offering options on the Trust will provide investors with a greater opportunity to realize the benefits of utilizing options on an ETF based on spot bitcoin, including cost efficiencies and increased hedging strategies. The Exchange believes that offering options on a competitively priced ETF based on spot bitcoin will benefit investors by providing them with an additional, relatively lower cost risk management tool allowing them to manage, more easily, their positions, and associated risks, in their portfolios in connection with exposure to spot bitcoin. Today, the Exchange lists options on other commodity ETFs structured as a trust, which essentially offer the same objectives and benefits to investors, and for which the Exchange has not identified any issues with the continued listing and trading of options on those ETFs.

The Exchange also believes the proposal to permit options on the Trust will remove impediments to and perfect the mechanism of a free and open market and a national market system, because options on the Trust will comply with current Exchange Rules. Options on the Trust must satisfy the initial listing standards and continued listing standards currently in the Exchange Rules, applicable to options on all ETFs, including options on other commodity ETFs already deemed appropriate for options trading on the Exchange pursuant to Options 4, Section 3(h)(iv). Further, Exchange Rules that currently govern the listing and trading of options on ETFs, including permissible expirations, strike prices, minimum increments, position and exercise limits, and margin requirements, will govern the listing and trading of options on the Trust. The Exchange represents that it has the necessary systems capacity to support options on the Trust. The Exchange believes that its existing surveillance and reporting safeguards are designed to deter and detect possible manipulative behavior which might arise from listing and trading options on ETFs, including the Trust options.

Finally, the Commission has previously approved the listing and trading of options on other commodity ETFs structured as a trust, such as SPDR® Gold Trust,[29] the iShares COMEX Gold Trust [30] the iShares Silver Trust,[31] the ETFS Gold Trust,[32] and the ETFS Silver Trust.[33]

Further, the Exchange's proposal to amend the name ''ETFS Gold Trust'' to ''Aberdeen Standard Physical Gold Trust'' in Options 4, Section 3(h)(iv) is consistent with the Act and the protection of investors as this amendment reflects the current name of this product. Also, the Exchange's proposal to correct two citations in Options 4, Section 4(g) [34] are consistent with the Act as these amendments are intended to update incorrect citations.

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 does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act as options on the Trust will be subject to initial listing standards and continued listing standards the same as other options on ETFs listed on the Exchange. Further, options on the Trust will be subject to Exchange Rules that currently govern the listing and trading of options on ETFs, including permissible expirations, strike prices, minimum increments, position and exercise limits, and margin requirements. Options on the Trust will be equally available to all market participants who wish to trade such options. Also, and as stated above, the Exchange already lists options on other commodity ETFs structured as a trust.

The Exchange does not believe that the proposal to list and trade options on the Trust will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. To the extent that permitting options on the Trust to trade on the Exchange may make the Exchange a more attractive marketplace to market participants, such market participants are free to elect to become market participants on the Exchange. Additionally, other options exchanges are free to amend their listing rules, as applicable, to permit them to list and trade options on the Trust. The Exchange believes that the proposed rule change may relieve any burden on, or otherwise promote, competition as it is designed to increase competition for order flow on the Exchange in a manner that is beneficial to investors by providing them with a lower-cost option to hedge their investment portfolios. The Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues that offer similar products. Ultimately, the Exchange believes that offering options on the Trust for trading on the Exchange will promote competition by providing investors with an additional, relatively low-cost means to hedge their portfolios and meet their investment needs in connection with spot bitcoin prices and bitcoin related products and positions.

Finally, the Exchange's proposal to amend the name ''ETFS Gold Trust'' to ''Aberdeen Standard Physical Gold Trust'' in Options 4, Section 3(h)(iv) does not impose an undue burden on competition as this amendment reflects the current name of this product. Also, the Exchange's proposal to correct two

[28] 15 U.S.C. 78(f)(b)(5).

[29] *See* Securities Exchange Act Release No. 57897 (May 30, 2008), 73 FR 32061 (June 5, 2008) (SR–Amex–2008–15; SR–CBOE–2005–11; SR–ISE–2008–12; SR–NYSEArca–2008–52; and SR–Phlx–2008–17) (Order Granting Approval of a Proposed Rule Change, as Modified, and Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Changes, as Modified, Relating to Listing and Trading Options on the SPDR Gold Trust).

[30] *See* Securities Exchange Act Release No. 59055 (December 4, 2008), 73 FR 75148 (December 10, 2008) (SR–Amex–2008–68; SR–BSE–2008–51; SR–CBOE–2008–72; SR–ISE–2008–58; SR–NYSEArca–2008–66; and SR–Phlx–2008–58) (Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Changes Relating to the Listing and Trading Options on Shares of the iShares COMEX Gold Trust and the iShares Silver Trust).

[31] *Id.*

[32] *See* Securities Exchange Act Release No. 61483 (February 3, 2010), 75 FR 6753 (February 10, 2010) (SR–CBOE–2010–007; SR–ISE–2009–106; SR–NYSEAmex–2009–86; and SR–NYSEArca–2009–110) (Order Granting Approval of Proposed Rule Changes and Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change Relating to Listing and Trading Options on the ETFS Gold Trust and the ETFS Silver Trust).

[33] *Id.*

[34] The Exchange proposes to update a citation in Options 4, Section 4(g)(1) from ''Options 4, Section 3(h)(A)(i)'' to ''Options 4, Section 3(h)(i)'' The Exchange also proposes to update a citation in Options 4, Section 4(g)(2) from ''Options 4, Section 3(h)(A)(ii)'' to ''Options 4, Section 3(h)(ii).''

citations in Options 4, Section 4(g) [35] does not impose an undue burden on competition as these amendments are intended to update incorrect citations.

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

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

A. by order approve or disapprove such proposed rule change, or

B. institute proceedings to determine whether the proposed rule change should be 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, as modified by Amendment No. 1, 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–ISE–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–ISE–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–ISE–2024–03 and should be submitted on or before February 15, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[36]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024–01389 Filed 1–24–24; 8:45 am]

BILLING CODE 8011–01–P

[35] The Exchange proposes to update a citation in Options 4, Section 4(g)(1) from ''Options 4, Section 3(h)(A)(i)'' to ''Options 4, Section 3(h)(i)'' The Exchange also proposes to update a citation in Options 4, Section 4(g)(2) from ''Options 4, Section 3(h)(A)(ii)'' to ''Options 4, Section 3(h)(ii).''

[36] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99400; File No. SR–BOX–2024–04]

Self-Regulatory Organizations; BOX Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Fee Schedule for Trading on the BOX Options Market LLC Facility To Decrease Certain Electronic Non-Auction Transaction Fees

January 19, 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 12, 2024, BOX Exchange LLC (''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 Exchange filed the proposed rule change pursuant to Section 19(b)(3)(A)(ii) of the Act,[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposal effective upon filing with the Commission. 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 the Substance of the Proposed Rule Change

The Exchange is filing with the Securities and Exchange Commission (''Commission'') a proposed rule change to amend the Fee Schedule on the BOX Options Market LLC (''BOX'') options facility. The text of the proposed rule change is available from the principal office of the Exchange, at the Commission's Public Reference Room and also on the Exchange's internet website at *https://rules.boxexchange.com/rulefilings.*

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 Section IV.A (Non-Auction Transactions) of the BOX Fee Schedule. The Exchange proposes to decrease Professional Customer and Broker Dealer maker fees on transactions in Penny Interval Classes and SPY where the contra party is a Public Customer.

In Section IV.A of the BOX Fee Schedule, fees and credits for electronic Non-Auction Transactions are assessed depending on three factors: (i) the account type of the Participant submitting the order; (ii) whether the Participant is a liquidity provider or liquidity taker; and (iii) the account type of the contra party. Currently, when a Professional Customer or Broker Dealer

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

Penny Interval Class or SPY order is a liquidity maker contra to a Public Customer, the Professional Customer or Broker Dealer is assessed a fee of $0.60. The Exchange now proposes to decrease Professional Customer and Broker Dealer maker fees on Penny Interval Classes and SPY electronic Non-Auction Transactions contra to a Public Customer. Accordingly, when a Professional Customer or Broker Dealer order in a Penny Interval Class or SPY is a liquidity maker contra to a Public Customer, the Professional Customer or Broker Dealer will be assessed a fee of $0.50.

The Exchange notes that the proposed fees are comparable in amount with the fees at several other exchanges.[5] The Exchange believes that the proposed changes are reasonable and competitive when compared to other exchanges and that the changes will attract order flow, thus improving the markets on BOX to the benefit of all Participants.

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act, in general, and Section 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 BOX Participants and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Exchange notes that it 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 17% of the market share and currently the Exchange represents only approximately 7% of the market share.[7] 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.'' [8] As stated above, the Exchange operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. The proposed fee changes reflect a competitive pricing structure designed to attract Professional Customer and Broker Dealer electronic non-auction order flow to BOX.

The Exchange believes the proposed electronic Non-Auction Transaction fees for Professional Customer and Broker Dealer Penny Interval Class and SPY transactions contra to Public Customers are reasonable as the proposed fees are comparable to similar transaction fees assessed at other exchanges.[9] The Exchange further believes that the proposed Professional Customer and Broker Dealer Penny Interval Class and SPY transaction fees will attract order flow because the reduced fees will be competitive with other exchanges. The Exchange notes that other exchanges assess fees between $0.47 and $0.50 for Professional Customer and Broker Dealer transactions in Penny Interval Classes, including SPY.[10]

The Exchange believes that assessing Professional Customers and Broker Dealers $0.50 for Penny Interval Class and SPY electronic Non-Auction Transactions contra to Public Customers is equitable and not unfairly discriminatory. The Exchange notes that Market Maker maker fees assessed for Penny Interval Classes contra to Public Customers for electronic Non-Auction Transactions are $0.50 and Market Maker maker fees assessed for SPY contra to Public Customers for electronic Non-Auction Transactions are $0.00. Thus, Professional Customer, Broker Dealer, and Market Maker maker fees in Penny Interval Classes contra to Public Customers for electronic Non-Auction Transactions will be the same.

The Exchange notes that Professional Customer and Broker Dealer maker fees for Penny Interval Classes and SPY contra to Public Customers for electronic Non-Auction Transactions will remain higher than Public Customer transactions where the contra party is another Public Customer. The securities markets generally, and BOX in particular, have historically aimed to improve markets for investors and develop various features within the market structure for Public Customer benefit. Accordingly, the Exchange believes that charging a lower fee for Public Customers compared to other account types on BOX is appropriate and not unfairly discriminatory. The Exchange believes that charging a lower fee for Public Customers will attract a high level of Public Customer order flow and create liquidity which will ultimately benefit all Participants trading on BOX.

The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow and discontinue or reduce use of certain categories of products in response to fee changes. Accordingly, competitive forces constrain options exchange transaction fees. Stated differently, changes to exchange transaction fees can have a direct effect on the ability of an exchange to compete for order flow. The Exchange believes the proposed changes are a reasonable attempt to effectively compete for electronic non-auction Professional Customer and Broker Dealer orders. The Exchange believes that the proposed change may incentivize Professional Customer and Broker Dealer order flow and, in turn, may make BOX a more competitive venue for order execution to the benefit of all Participants. Finally, the Exchange believes the proposed changes are consistent with the Act because, to the extent the modifications permit the Exchange to continue to attract greater volume and liquidity, the proposed changes would improve BOX's overall competitiveness and strengthen market quality for all market participants.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

The Exchange believes the proposed changes to Professional Customer and Broker Dealer maker fees for Penny Interval Classes and SPY contra to Public Customers in the electronic Non-Auction Transactions fee structure will not impose a burden on intramarket competition as BOX believes that the changes will result in Professional Customers and Broker Dealers being charged appropriately for their Penny Interval Class and SPY maker

[5] *See e.g.,* NYSE American LLC Options Fee Schedule, Section I (''Options Transaction Fees and Credits'' applicable to Penny for Broker-Dealer and Professional Customer of $0.50); Cboe EDGX Exchange, Inc. Fee Schedule (''Transaction Fees'' applicable to Penny Program Securities for Away Market Maker, Broker Dealer, and Professional of $0.48); Miami International Securities Exchange, LLC Fee Schedule (''Transaction Fees'' applicable to Penny Classes for Public Customer that is Not a Priority Customer, Non-MIAX Market Maker, and Non-Member Broker-Dealer of $0.47).

[6] 15 U.S.C. 78f(b)(4) and (5).

[7] *See* Cboe Global Markets U.S. Options Market Month-to-Date Volume Summary (December 13, 2023), available at *https://markets.cboe.com/us/options/market_statistics/.*

[8] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (''Regulation NMS Adopting Release'').

[9] *See supra* note 5.

[10] *Id.*

transactions contra to Public Customers. The proposed change would apply to all similarly situated market participants and, accordingly, the proposed change would not impose a disparate burden on competition among Participants on BOX. The proposed change is designed to compete with other options exchanges and to attract order flow. The Exchange notes that Public Customer fees remain lower than Professional Customer, Broker Dealer, and certain Market Maker fees because BOX has historically aimed to improve markets for investors and develop various features within the market structure for Public Customer benefit.[11] The Exchange believes further the proposed changes to Professional Customer and Broker Dealer Penny Interval Class and SPY maker fees contra to Public Customers in the electronic Non-Auction Transactions fee structure will not impose a burden on intermarket competition. The Exchange notes that the Non-Auction Transaction fee structure as a whole, including the proposed change, is designed to be competitive with other options exchanges and to attract order flow. The Exchange believes the electronic Non-Auction Transactions fee structure, including the proposed change, will remain competitive with other options exchanges.[12]

Finally, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues. In such an environment, the Exchange must continually review, and consider adjusting, its fees and rebates to remain competitive with other exchanges. Because competitors are free to modify their own fees and rebates in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee or rebate changes in this market may impose any burden on competition is extremely limited. For the reasons described above, the Exchange believes that the proposed rule change will encourage intermarket competition.

[11] The Exchange notes that Public Customer fees remain lower than Market Maker fees, with the exception of Market Maker maker fees contra to Non-Public Customers for electronic Non-Auction Transactions, as well as Market Maker maker fees contra to Public Customers assessed in SPY for electronic Non-Auction Transactions. Similar to Public Customers, Market Makers are assessed no fee for the above transactions.

[12] *See supra* note 5.

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 Exchange Act [13] and Rule 19b–4(f)(2) thereunder,[14] because it establishes or changes a due, or fee.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend the rule change if it appears to the Commission that the action is necessary or appropriate in the public interest, for the protection of investors, or would otherwise further 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 numberSR–BOX–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–BOX–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 (*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–BOX–2024–04 and should be submitted on or before February 15, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024–01392 Filed 1–24–24; 8:45 am]

BILLING CODE 8011–01–P

[13] 15 U.S.C. 78s(b)(3)(A)(ii).

[14] 17 CFR 240.19b–4(f)(2).

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99401; File No. SR–BOX–2024–05]

Self-Regulatory Organizations; BOX Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Fee Schedule for Trading on the BOX Options Market LLC Facility To Modify Certain Electronic Non-Auction Transaction Fees

January 19, 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 12, 2024, BOX Exchange LLC (''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 Exchange filed the proposed rule change pursuant to Section 19(b)(3)(A)(ii) of the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

Act,[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposal effective upon filing with the Commission. 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 the Substance of the Proposed Rule Change

The Exchange is filing with the Securities and Exchange Commission (''Commission'') a proposed rule change to amend the Fee Schedule on the BOX Options Market LLC (''BOX'') options facility. The text of the proposed rule change is available from the principal office of the Exchange, at the Commission's Public Reference Room and also on the Exchange's internet website at *https://rules.boxexchange.com/rulefilings.*

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 Section IV.A, Non-Auction Transactions, of the BOX Fee Schedule. Specifically, the Exchange proposes to establish separate fees and rebates on electronic Non-Auction Transactions for options overlying the INVESCO QQQ Trust℠, Series 1 (''QQQ''), and iShares Russell 2000 Index Fund (''IWM'').

Non-Auction Transactions

Currently, in Section IV.A of the BOX Fee Schedule, fees and credits for electronic Non-Auction Transactions are assessed depending on three factors: (i) the account type of the Participant submitting the order; (ii) whether the Participant is a liquidity provider or liquidity taker; and (iii) the account type of the contra party.

The Exchange now proposes to assess separate fees for QQQ and IWM electronic Non-Auction Transactions. Currently, when a Public Customer QQQ or IWM order is a liquidity taker contra to a Professional Customer, Broker Dealer, or a Market Maker, the Public Customer is provided a $0.20 rebate. The Exchange now proposes to increase Public Customer taker fees on QQQ and IWM electronic Non-Auction Transactions. Accordingly, when a Public Customer QQQ or IWM order is a liquidity taker contra to a Professional Customer, Broker Dealer, or a Market Maker, the Public Customer will be assessed $0.10. Further, under this proposal, Public Customer QQQ or IWM orders that interact with a Public Customer QQQ or IWM order will continue to not be assessed a fee.

Further, when a Professional Customer or Broker Dealer QQQ or IWM order interacts with a Public Customer QQQ or IWM order, the Exchange proposes to assess a $0.50 fee when making liquidity or $0.50 when taking liquidity. When a Professional Customer or Broker Dealer QQQ or IWM order interacts with a Professional Customer, Broker Dealer, or Market Maker QQQ or IWM order, the Exchange proposes to assess $0.15 for making liquidity or $0.50 for taking liquidity. The Exchange notes that these fees are the same as fees currently assessed to QQQ and IWM transactions as QQQ and IWM are Penny Interval Classes.[5]

When a Market Maker QQQ or IWM order interacts with a Public Customer QQQ or IWM order, the Exchange proposes to assess $0.00 when making liquidity or $0.50 when taking liquidity. The Exchange notes that assessing Market Maker QQQ and IWM orders that interact with Public Customers $0.00 for making liquidity is a fee decrease from the current fee, which is $0.50. Lastly, when a Market Maker QQQ or IWM order interacts with a Professional Customer, Broker Dealer, or Market Maker QQQ or IWM order, the Exchange proposes to assess no fee when making liquidity or $0.50 when taking liquidity, which is the same as the currently assessed fee for QQQ and IWM orders.

The proposed fee structure for QQQ and IWM electronic Non-Auction Transactions will be as follows:

Account type	SPY, QQQ, and IWM		
	Contra party	Maker	Taker
Public Customer	Public Customer	$0.00	$0.00
	Professional Customer/Broker Dealer	0.00	0.10
	Market Maker	0.00	0.10
Professional Customer or Broker Dealer	Public Customer	0.50	0.50
	Professional Customer/Broker Dealer	0.15	0.50
	Market Maker	0.15	0.50
Market Maker	Public Customer	0.00	0.50
	Professional Customer/Broker Dealer	0.00	0.50
	Market Maker	0.00	0.50

For example, under the proposal, if a Public Customer submitted a QQQ order to the BOX Book (making liquidity), the Public Customer would not be charged a fee if the order interacted with a Market Maker's QQQ order and the Market Maker (taking liquidity) would be charged $0.50.

Tiered Volume Rebate for Non-Auction Transactions

The Exchange also proposes to amend Section IV.A.1 of the Fee Schedule, Tiered Volume Rebate for Non-Auction Transactions. Specifically, the Exchange proposes to adopt separate rebates for QQQ and IWM transactions for Public Customers in Non-Auction Transactions. For Tier 1, where percentage thresholds of Public

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

[5] *See* BOX Informational Circular 2022–11 available at *https://boxoptions.com/assets/IC-2022-11-Penny-Program-Class-Removals-1.pdf.*

Customer volume is 0.000%—0.249%, the Exchange proposes no rebates. For Tier 2, where percentage thresholds of Public Customer volume is 0.250%—0.499%, the Exchange proposes to offer a $0.05 rebate when making liquidity or no rebate when taking liquidity. For Tier 3, where percentage thresholds of Public Customer volume is 0.500%—0.749%, the Exchange proposes a $0.10 rebate when making liquidity or no rebate when taking liquidity. For Tier 4, where percentage thresholds of Public Customer volume is 0.750%—0.999%, the Exchange proposes a $0.20 rebate when making liquidity or no rebate for taking liquidity. In Tier 5, where percentage thresholds of Public Customer volume is 1.000% and above, the Exchange proposes a $0.27 rebate when making liquidity or $0.11 rebate when taking liquidity. The proposed rebate structure will be as follows:

Tier	Percentage thresholds of national customer volume in multiply-listed options classes (monthly)	Per contract rebate	
		SPY, QQQ, and IWM	
		Maker	Taker
1	0.000%–0.249%	$0.00	$0.00
2	0.250%–0.499%	(0.05)	0.00
3	0.500%–0.749%	(0.10)	0.00
4	0.750%–0.999%	(0.20)	0.00
5	1.000% and Above	(0.27)	(0.11)

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act, in general, and Section 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 BOX Participants and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Exchange's proposal to adopt separate fees for QQQ and IWM electronic Non-Auction Transactions is reasonable, equitable, and not unfairly discriminatory because pricing by symbol is a common practice on many U.S. options exchanges as a means to incentivize order flow to be sent to an exchange for execution in the most actively traded options classes. The Exchange notes that the proposed fees are identical to the fees currently assessed for SPY transactions on BOX. The Exchange also notes that other exchanges assess separate fees and credits for QQQ and IWM transactions.[7] Further, QQQ and IWM are two of the most actively traded options and therefore the Exchange believes that separate fees are appropriate to more effectively attract order flow to BOX.

Non-Auction Transactions

The Exchange believes the proposed electronic Non-Auction Transaction fees for Public Customer QQQ and IWM transactions are reasonable. Under the proposal, Public Customers will never pay a fee for their QQQ or IWM Non-Auction Transactions when making liquidity against Public Customer or Non-Public Customer QQQ or IWM orders. The Exchange notes that Public Customers are not currently assessed a fee for their QQQ or IWM Non-Auction Transactions when making liquidity against Public Customer or Non-Public Customer QQQ or IWM orders. The securities markets generally, and BOX in particular, have historically aimed to improve markets for investors and develop various features within the market structure for Public Customer benefit. The Exchange believes that assessing no fee will attract Public Customer order flow, which provides increased opportunities to interact with Public Customer order flow to the benefit of all Participants. Accordingly, the Exchange believes that charging no fee for Public Customers when making liquidity for their QQQ and IWM transactions is appropriate and not unfairly discriminatory.

Under the proposal, Public Customer taker fees for QQQ and IWM electronic Non-Auction Transactions when taking liquidity against Professional Customers, Broker Dealers, or Market Makers will be $0.10, which is a fee increase from what is currently assessed. The Exchange believes the proposed electronic Non-Auction transaction fees for Public Customer QQQ and IWM transactions are reasonable as the proposed fees are lower than similar transaction fees assessed at other exchanges.[8] The Exchange further believes that the proposed QQQ and IWM taker fee for electronic Non-Auction Public Customer transactions will not disincentivize Public Customer order flow because BOX's electronic Non-Auction Transactions fee structure is designed to attract competitive quotes and orders, which results in liquid markets that Public Customers may find attractive. The Exchange believes that Public Customers may be willing to pay a fee of $0.10 to access such competitive markets.

The Exchange believes further that charging a fee of $0.10 to Public Customers for QQQ and IWM electronic Non-Auction Transactions is equitable and not unfairly discriminatory. The Exchange notes that Professional Customer, Broker Dealer, and Market Maker taker fees for QQQ and IWM electronic Non-Auction Transactions when taking liquidity against any contra party are $0.50 while Public Customers will be assessed $0.10 when taking liquidity against Professional Customers, Broker Dealers, and Market Makers. The Exchange again notes that the securities markets generally, and BOX in particular, have historically aimed to improve markets for investors and develop various features within the market structure for Public Customer benefit. The Exchange believes that assessing lower fees for Public Customers compared to other account types will attract Public Customer order flow, which provides increased opportunities to interact with Public Customer order flow to the benefit of all Participants. Accordingly, the Exchange believes that charging a lower fee for Public Customers for their QQQ and IWM transactions compared to other account types on BOX is appropriate and not unfairly discriminatory.

The Exchange believes that charging Professional Customers and Broker Dealers higher fees than Public Customers for QQQ and IWM electronic Non-Auction Transactions is equitable and not unfairly discriminatory.

[6] 15 U.S.C. 78f(b)(4) and (5).

[7] *See* Cboe C2 Exchange, Inc. Fee Schedule *and* MIAX PEARL, LLC Fee Schedule *and* Nasdaq BX, Inc. Fee Schedule.

[8] *See e.g.,* Cboe C2 Exchange, Inc. Fee Schedule (''Transaction Fees'' applicable to QQQ and IWM for Public Customer Remove rates of $0.37); MIAX PEARL, LLC Fee Schedule (''Transaction Rebates/Fees'' for Priority Customer QQQ and IWM Taker in Tier 1 of $0.48).

Professional Customers, while Public Customers by virtue of not being Broker Dealers, generally engage in trading activity more similar to Broker Dealer proprietary trading accounts (submitting more than 390 standard orders per day on average). The Exchange believes that the higher level of trading activity from these Participants will draw a greater amount of BOX system resources than that of non-professional, Public Customers. Because this higher level of trading activity will result in greater ongoing operational costs, the Exchange aims to recover its costs by assessing Professional Customers and Broker Dealers higher fees for transactions. The Exchange again notes that Professional Customers and Broker Dealers are currently assessed the same fees for their QQQ and IWM transactions as QQQ and IWM are Penny Interval Classes.[9]

The Exchange believes it is reasonable, equitable and not unfairly discriminatory to assess no maker fee for BOX Market Makers trading against a Public Customer, Professional Customer, Broker Dealer, or Market Maker for QQQ and IWM electronic Non-Auction Transactions. The Exchange notes that under this proposal Market Makers making liquidity against a Public Customer for QQQ and IWM electronic Non-Auction Transactions will not be assessed a fee, which is a fee decrease from what is currently assessed. As a result of this change, Market Makers may tighten their spreads in QQQ and IWM and therefore will increase market quality in QQQ and IWM options. Specifically, Market Makers can provide higher volumes of liquidity and lowering certain fees will help attract a higher level of Market Maker order flow to the BOX Book and create liquidity. As such, the Exchange believes it is appropriate that Market Makers be charged lower transaction fees than Professional Customers and Broker Dealers for QQQ and IWM electronic Non-Auction Transactions.

Tiered Volume Rebate for Non-Auction Transactions

The Exchange believes that the proposed Public Customer QQQ and IWM rebates in the Tiered Volume Rebate for Non-Auction Transactions structure are reasonable, equitable, and not unfairly discriminatory. The proposed volume thresholds and applicable rebates for QQQ and IWM transactions are meant to incentivize Public Customers to post orders on BOX to obtain the benefit of the rebate, which will in turn benefit all market participants by increasing liquidity on BOX. The Exchange notes that the proposed QQQ and IWM rebates are identical to the rebates that are currently assessed to SPY transactions today.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes the proposed change will not impose a burden on intramarket competition as BOX believes that the changes will result in the Participants being charged appropriately for their QQQ and IWM transactions. Specifically, the change to eliminate Market Maker maker fees when contra to Public Customers is designed to incentivize order flow to BOX by incentivizing Market Makers to provide tighter spreads thus improving market quality to the benefit of all BOX Participants. Additionally, the Exchange believes that eliminating Public Customer credits when taking liquidity contra to a Professional Customer, Broker Dealer, or Market Maker and instead assessing a fee will not disincentivize the sending of such orders because BOX's electronic Non-Auction Transactions fee structure is designed to attract competitive quotes and orders, which results in liquid markets that Public Customers may find attractive. The Exchange notes further that submitting an order is entirely voluntary and Participants can determine which type of order they wish to submit, if any, to BOX. Further, the Exchange believes the proposed changes will not impose a burden on intermarket competition as another exchange currently assesses separate fees for QQQ and IWM transactions.[10]

The Exchange believes the addition of QQQ and IWM to the rebate structure for Public Customer electronic Non-Auction Transactions will not impose a burden on competition among various Exchange Participants. The Exchange believes that the proposed changes will result in Public Customers being rebated appropriately for their QQQ and IWM transactions. Further, the Exchange believes that this proposal will enhance competition between exchanges because it is designed to allow BOX to better compete with other exchanges for this order flow.

Finally, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues. In such an environment, the Exchange must continually review, and consider adjusting, its fees and credits to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed rule change reflects this competitive environment.

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 Exchange Act[11] and Rule 19b–4(f)(2) thereunder,[12] because it establishes or changes a due, or fee.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend the rule change if it appears to the Commission that the action is necessary or appropriate in the public interest, for the protection of investors, or would otherwise further 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–BOX–2024–05 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–BOX–2024–05. This file number should be included on the subject line if email is used. To help the Commission process and review your

[9] *See* BOX Fee Schedule, Section IV.A.

[10] *See supra* note 7.

[11] 15 U.S.C. 78s(b)(3)(A)(ii).

[12] 17 CFR 240.19b–4(f)(2).

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–BOX–2024–05 and should be submitted on or before February 15, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024–01393 Filed 1–24–24; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99394; File No. SR–PEARL–2024–03]

Self-Regulatory Organizations; MIAX PEARL LLC; Notice of Filing of a Proposed Rule Change To Amend Exchange Rule 402, Criteria for Underlying Securities

January 19, 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 January 12, 2024, MIAX PEARL LLC (''MIAX Pearl'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I and II 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 Exchange Rule 402, Criteria for Underlying Securities.

The text of the proposed rule change is available on the Exchange's website at *https://www.miaxglobal.com/markets/us-options/pearl-options/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.

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 Exchange Rule 402, Criteria for Underlying Securities,[3] to allow the Exchange to list and trade options on Exchange-Traded Fund Shares (''ETFs'') that represent interests in a trust that holds bitcoin (''Bitcoin ETPs''), designating them as ETFs deemed appropriate for options trading on the Exchange.

Current Exchange Rule 402(i)(4) provides that, subject to certain other criteria set forth in that Rule, securities deemed appropriate for options trading include ETFs that represent certain types of interests,[4] including interests in certain specific trusts that hold financial instruments, money market instruments, or precious metals (which are deemed commodities).

Bitcoin ETPs are bitcoin-backed commodity ETPs structured as trusts.[5] Similar to any ETFs currently deemed appropriate for options trading under Exchange Rule 402, the investment objective of a Bitcoin ETP trust is for its shares to reflect the performance of bitcoin (less the expenses of the trust's operations), offering investors an opportunity to gain exposure to bitcoin without the complexities of bitcoin delivery. As is the case for ETFs currently deemed appropriate for

[13] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Exchange notes that its affiliate exchange, MIAX Options, has submitted a substantively identical proposal.

[4] *See* Exchange Rule 402(i), which permits options trading on ETFS that: (1) represent interests in registered investment companies (or series thereof) organized as open-end management investment companies, unit investment trusts or similar entities that hold portfolios of securities and/or financial instruments (''Funds''), including, but not limited to, stock index futures contracts, options on futures, options on securities and indices, equity caps, collars and floors, swap agreements, forward contracts, repurchase agreements and reverse repurchase agreements (the ''Financial Instruments''), and money market instruments, including, but not limited to, U.S. government securities and repurchase agreements (the ''Money Market Instruments'') comprising or otherwise based on or representing investments in broad-based indexes or portfolios of securities and/or Financial Instruments and Money Market Instruments (or that hold securities in one or more other registered investment companies that themselves hold such portfolios of securities and/or Financial Instruments and Money Market Instruments); (2) represent interests in a trust or similar entity that holds a specified non-U.S. currency or currencies deposited with the trust which when aggregated in some specified minimum number may be surrendered to the trust or similar entity by the beneficial owner to receive the specified non-U.S. currency or currencies and pays the beneficial owner interest and other distributions on the deposited non-U.S. currency or currencies, if any, declared and paid by the trust (''Currency Trust Shares''); (3) represent commodity pool interests principally engaged, directly or indirectly, in holding and/or managing portfolios or baskets of securities, commodity futures contracts, options on commodity futures contracts, swaps, forward contracts and/or options on physical commodities and/or non-U.S. currency (''Commodity Pool ETFs''); (4) are issued by the SPDR® Gold Trust or the iShares COMEX Gold Trust or the iShares Silver Trust or the ETFS Silver Trust or the ETFS Gold Trust or the ETFS Palladium Trust or the ETFS Platinum Trust or the Sprott Physical Gold Trust; or (5) represent an interest in a registered investment company (''Investment Company'') organized as an open-end management company or similar entity, that invests in a portfolio of securities selected by the Investment Company's investment adviser consistent with the Investment Company's investment objectives and policies, which is issued in a specified aggregate minimum number in return for a deposit of a specified portfolio of securities and/or a cash amount with a value equal to the next determined net asset value (''NAV''), and when aggregated in the same specified minimum number, may be redeemed at a holder's request, which holder will be paid a specified portfolio of securities and/or cash with a value equal to the next determined NAV (''Managed Fund Share''); provided that all of the conditions listed in (5)(i) and 5(ii) are met.

[5] The Exchange notes several filings to list and trade ETFs that hold bitcoin as NMS stocks (and registration statements for those Units) are currently pending with the Securities and Exchange Commission (the ''Commission''). Pursuant to the Exchange's Rules, the Exchange would only have authority to list and trade ETFs that are trading as NMS stocks.

options trading, a Bitcoin ETP's shares represent units of fractional undivided beneficial interest in the trust, the assets of which consist principally of bitcoin and are designed to track bitcoin or the performance of the price of bitcoin and offer access to the bitcoin market.[6] Bitcoin ETPs provide investors with cost efficient alternatives that allow a level of participation in the bitcoin market through the securities market. The primary substantive difference between Bitcoin ETPs and ETFs currently deemed appropriate for options trading are that ETFs may hold securities, certain financial instruments, and specified precious metals (which are commodities), while Bitcoin ETPs hold bitcoin (which is also deemed a commodity).

The Exchange's initial listing standards for ETFs on which options may be listed and traded on the Exchange will apply to the Bitcoin ETPs. The Exchange expects Bitcoin ETPs to satisfy the initial listing standards as set forth in Exchange Rule 402(a) and Exchange Rule 402(i). Pursuant to Exchange Rule 402(a), a security (which includes ETFs) on which options may be listed and traded on the Exchange must be duly registered (with the Commission) and be an NMS stock (as defined in Rule 600 of Regulation NMS under the Act,) and be characterized by a substantial number of outstanding shares that are widely held and actively traded.[7] Exchange Rule 402(i) requires that ETFs must either (1) meet the criteria and standards set forth in Exchange Rule 402(a) or Exchange Rule 402(b), or (2) be available for creation or redemption each business day from or through the issuer in cash or in kind at a price related to net asset value, and the issuer must be obligated to issue ETFs in a specified aggregate number even if some or all of the investment assets required to be deposited have not been received by the issuer, subject to the condition that the person obligated to deposit the investments has undertaken to deliver the investment assets as soon as possible and such undertaking is secured by the delivery and maintenance of collateral consisting of cash or cash equivalents satisfactory to the issuer, as provided in the respective prospectus. The Exchange expects that Bitcoin ETPs would satisfy Exchange Rule 402(i)(5)(i)(B).[8]

Options on Bitcoin ETPs will also be subject to the Exchange's continued listing standards set forth in Exchange Rule 403(g), for ETFs deemed appropriate for options trading pursuant to Exchange Rule 402(i). Specifically, Exchange Rule 403(g) provides that ETFs that were initially approved for options trading pursuant to Exchange Rule 402(i) shall be deemed not to meet the requirements for continued approval, and the Exchange shall not open for trading any additional series of option contracts of the class covering that such ETFs, if the ETFs are delisted from trading pursuant to Exchange Rule 403(b)(4), are halted or suspended from trading in their primary market. Additionally, options on ETFs may be subject to the suspension of opening transactions in any of the following circumstances: (1) in the case of options covering ETFs approved for trading under Exchange Rule 402(i)(5)(i)(A), in accordance with the terms of paragraphs (b)(1), (2), and (3) of Exchange Rule 403; (2) in the case of options covering ETFs approved for trading under Exchange Rule 402(i)(5)(i)(B), following the initial twelve-month period beginning upon the commencement of trading in the ETFs on a national securities exchange and are defined as an NMS stock [sic], there are fewer than 50 record and/or beneficial holders of such ETFs for 30 or more consecutive trading days; (3) the value of the index or portfolio of securities, non-U.S. currency, or portfolio of commodities including commodity futures contracts, options on commodity futures contracts, swaps, forward contracts and/or options on physical commodities and/or financial instruments and money market instruments on which the Units are based is no longer calculated or available; or (4) such other event shall occur or condition exist that in the opinion of the Exchange makes further dealing in such options on the Exchange inadvisable.

Options on a Bitcoin ETP will be physically settled contracts with American-style exercise.[9] Consistent with current Exchange Rule 404, which governs the opening of options series on a specific underlying security (including ETFs), the Exchange will open at least one expiration month for options on each Bitcoin ETP [10] at the commencement of trading on the Exchange and may also list series of options on a Bitcoin ETP for trading on a weekly [11] monthly,[12] or quarterly [13] basis. The Exchange may also list long-term equity option series (''LEAPS'') that expire from 12 to 180 months from the time they are listed.[14]

Pursuant to Exchange Rule 404, Interpretation and Policy .06, which governs strike prices of series of options on Trust Issued Receipts, the interval of strikes prices for series of options Bitcoin ETPs will be $1 or greater when the strike price is $200 or less and $5 or greater where the strike price is over $200.[15] Additionally, the Exchange may list series of options pursuant to the $1 Strike Price Interval Program,[16] the

[6] The trust may include minimal cash.

[7] As noted above, there are currently no Bitcoin ETPs trading as NMS stocks on a national securities exchange; however, registration statements and rule filings to list and trade several Bitcoin ETPs are currently pending with the Commission. *See* Securities Exchange Act Release No. 99306 (January 10, 2024) (citing all the proposed rule changes to list and trade Bitcoin ETPs on U.S. securities exchanges). The Exchange represents it would not list options on a Bitcoin ETP unless it satisfied the criteria in Exchange Rule 402(a) the proposed listing criteria, and any other applicable listing criteria.

[8] *See, e.g.,* Form S–1 Registration Statement filed on November 29, 2023 (Registration No. 333–275781) (pending registration statement for shares of the Pando Asset Spot Bitcoin Trust); and Form S–1 Registration Statement filed on September 12, 2023 (Registration No. 333- 274474) (pending registration statement for shares of the Franklin Bitcoin ETF).

[9] *See* Exchange Rule 401, which provides that the rights and obligations of holders and writers are set forth in the Rules of the Options Clearing Corporation (''OCC''); *see also* OCC Rules, Chapters VIII (which governs exercise and assignment) and Chapter IX (which governs the discharge of delivery and payment obligations arising out of the exercise of physically settled stock option contracts).

[10] *See* Exchange Rule 404(b). The monthly expirations are subject to certain listing criteria for underlying securities described within Exchange Rule 404 and its Interpretations and Policies. Monthly listings expire the third Friday of the month. The term ''expiration date'' (unless separately defined elsewhere in the OCC By-Laws), when used in respect of an option contract (subject to certain exceptions), means the third Friday of the expiration month of such option contract, or if such Friday is a day on which the exchange on which such option is listed is not open for business, the preceding day on which such exchange is open for business. *See* OCC By-Laws Article I, Section 1. Pursuant to Exchange Rule 404(c), additional series of options of the same class may be opened for trading on the Exchange when the Exchange deems it necessary to maintain an orderly market, to meet customer demand or when the market price of the underlying stock moves more than five strike prices from the initial exercise price or prices. Pursuant to Exchange Rule 404(e), new series of options on an individual stock may be added until the beginning of the month in which the options contract will expire. Due to unusual market conditions, the Exchange, in its discretion, may add a new series of options on an individual stock until the close of trading on the business day prior to expiration.

[11] *See* Exchange Rule 404, Interpretations and Policies .02.

[12] *See* Exchange Rule 404, Interpretations and Policies .13.

[13] *See* Exchange Rule 404, Interpretations and Policies .03.

[14] *See* Exchange Rule 404(d).

[15] *See* Exchange Rule 404, Interpretation and Policy .06.

[16] *See* Exchange Rule 404, Interpretation and Policy .01.

$0.50 Strike Program,[17] and the $2.50 Strike Price Program.[18] Pursuant to Exchange Rule 510, where the price of a series of a Bitcoin ETP option is less than $3.00, the minimum increment will be $0.05, and where the price is $3.00 or higher, the minimum increment will be $0.10.[19] Any and all new series of Bitcoin ETP options that the Exchange lists will be consistent and comply with the expirations, strike prices, and minimum increments set forth in Rules 404 and 510, as applicable.

Bitcoin ETP options will trade in the same manner as any other ETF options on the Exchange. The Exchange Rules that currently apply to the listing and trading of all ETFs options on the Exchange, including, for example, Exchange Rules that govern listing criteria, expiration and exercise prices, minimum increments, position and exercise limits, margin requirements, customer accounts and trading halt procedures will apply to the listing and trading of Bitcoin ETPs on the Exchange in the same manner as they apply to other options on all other ETFs that are listed and traded on the Exchange, including the precious-metal backed commodity ETFs already deemed appropriate for options trading on the Exchange pursuant to current Exchange Rule 402(i)(4).

Position and exercise limits for options on ETFs, including options on Bitcoin ETPs, are determined pursuant to Exchange Rules, Chapter III, Business Conduct. Position and exercise limits for ETFs options vary according to the number of outstanding shares and the trading volumes of the Underlying Security [20] over the past six months, where the largest in capitalization and the most frequently traded ETFs have an option position and exercise limit of 250,000 contracts (with adjustments for splits, re-capitalizations, etc.) on the same side of the market; and smaller capitalization Units have position and exercise limits of 200,000, 75,000, 50,000 or 25,000 contracts (with adjustments for splits, re-capitalizations, etc.) on the same side of the market.[21] The Exchange further notes that Exchange Rules, Chapter XV, Margins, which governs margin requirements applicable to trading on the Exchange, will also apply to the trading of Bitcoin ETP options.

The Exchange represents that the same surveillance procedures applicable to all other options on ETFs currently listed and traded on the Exchange will apply to options on Bitcoin ETPs, and that it has the necessary systems capacity to support the new option series. The Exchange believes that its existing surveillance and reporting safeguards are designed to deter and detect possible manipulative behavior which might potentially arise from listing and trading ETFs options, including precious metal-commodity backed ETFs options, as proposed. Also, the Exchange may obtain information from CME Group Inc.'s designated contract markets that are members of the Intermarket Surveillance Group related to any financial instrument that is based, in whole or in part, upon an interest in or performance of bitcoin, as applicable.

The Exchange has also analyzed its capacity and represents that it believes the Exchange and OPRA have the necessary systems capacity to handle the additional traffic associated with the listing of new series that may result from the introduction of options on Bitcoin ETPs up to the number of expirations currently permissible under the Rules. Because the proposal is limited to ETFs on a single commodity, the Exchange believes any additional traffic that may be generated from the introduction of Bitcoin ETP options will be manageable.

The Exchange believes that offering options on Bitcoin ETPs will benefit investors by providing them with an additional, relatively lower cost investing tool to gain exposure to the price of bitcoin and [sic] hedging vehicle to meet their investment needs in connection with bitcoin-related products and positions. The Exchange expects investors will transact in options on Bitcoin ETPs in the unregulated over-the-counter (''OTC'') options market (if the Commission approves Bitcoin ETPs for exchange-trading),[22] but may prefer to trade such options in a listed environment to receive the benefits of trading listing options, including (1) enhanced efficiency in initiating and closing out position; (2) increased market transparency; and (3) heightened contra-party creditworthiness due to the role of OCC as issuer and guarantor of all listed options. The Exchange believes that listing Bitcoin ETP options may cause investors to bring this liquidity to the Exchange, would increase market transparency and enhance the process of price discovery conducted on the Exchange through increased order flow. The ETFs that hold financial instruments, money market instruments, or precious metal commodities on which the Exchange may already list and trade options are trusts structured in substantially the same manner as Bitcoin ETPs and essentially offer the same objectives and benefits to investors, just with respect to different assets. The Exchange notes that it has not identified any issues with the continued listing and trading of any ETFs options, including ETFs that hold commodities (*i.e.,* precious metals) that it currently lists and trades on the Exchange.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[23] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [24] 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.

In particular, the Exchange believes that the proposal to list and trade options on Bitcoin ETPs will remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, protect investors because offering options on Bitcoin ETPs will provide investors with an opportunity to realize the benefits of utilizing options on a bitcoin-based ETP, including cost efficiencies and increased hedging strategies. The Exchange believes that offering Bitcoin ETP options will benefit investors by providing them with a relatively lower-cost risk management tool, which will

[17] *See* Exchange Rule 404, Interpretation and Policy .04.

[18] *See* Exchange Rule 404(f).

[19] *See* Exchange Rule 510.

[20] The term ''underlying security'' in respect of an option contract means the security which the Clearing Corporation shall be obligated to sell (in the case of a call option contract) or purchase (in the case of a put option contract) upon the valid exercise of the option contract. *See* Exchange Rule 100.

[21] As Bitcoin ETPs do not currently trade, options on Bitcoin ETPs would be subject to the 25,000 option contract limit.

[22] The Exchange understands from customers that investors have historically transacted in options on ETFs in the OTC options market if such options were not available for trading in a listed environment.

[23] 15 U.S.C. 78f(b).

[24] 15 U.S.C. 78f(b)(5).

allow them to manage their positions and associated risk in their portfolios more easily in connection with exposure to the price of bitcoin and with bitcoin-related products and positions. Additionally, the Exchange's offering of Bitcoin ETP options will provide investors with the ability to transact in such options in a listed market environment as opposed to in the unregulated OTC options market, which would increase market transparency and enhance the process of price discovery conducted on the Exchange through increased order flow to the benefit of all investors. The Exchange also notes that it already lists options on other commodity-based ETFs,[25] which, as described above, are trusts structured in substantially the same manner as Bitcoin ETPs and essentially offer the same objectives and benefits to investors, just with respect to a different commodity (*i.e.,* bitcoin rather than precious metals) and for which the Exchange has not identified any issues with the continued listing and trading of commodity-backed ETFs options it currently lists for trading.

The Exchange also believes the proposed rule change will remove impediments to and perfect the mechanism of a free and open market and a national market system, because it is consistent with current Exchange Rules, previously filed with the Commission. Options on Bitcoin ETPs must satisfy the initial listing standards and continued listing standards currently in the Exchange Rules, applicable to options on all ETFs, including ETFs that hold other commodities already deemed appropriate for options trading on the Exchange. Bitcoin ETP options will trade in the same manner as any other ETFs options—the same Exchange Rules that currently govern the listing and trading of all ETsF [sic] options, including permissible expirations, strike prices and minimum increments, and applicable position and exercise limits and margin requirements, will govern the listing and trading of options on Bitcoin ETPs in the same manner.

The Exchange represents that it has the necessary systems capacity to support the new ETF option series. The Exchange believes that its existing surveillance and reporting safeguards are designed to deter and detect possible manipulative behavior which might arise from listing and trading ETF options, including Bitcoin ETP options.

[25] *See* Exchange Rule 402(i)(4).

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 does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act as Bitcoin ETPs would need to satisfy the initial listing standards set forth in the Exchange Rules in the same manner as any other ETFs before the Exchange could list options on them. Additionally, Bitcoin ETP options will be equally available to all market participants who wish to trade such options. The Exchange Rules currently applicable to the listing and trading of options on ETFs on the Exchange will apply in the same manner to the listing and trading of all options on Bitcoin ETPs. Also, and as stated above, the Exchange already lists options on other commodity-based ETFs.[26]

The Exchange does not believe that the proposal to list and trade options on Bitcoin ETPs will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. To the extent that the advent of Bitcoin ETP options trading on the Exchange may make the Exchange a more attractive marketplace to market participants at other exchanges, such market participants are free to elect to become market participants on the Exchange. Additionally, other options exchanges are free to amend their listing rules, as applicable, to permit them to list and trade options on Bitcoin ETPs. Additionally, the Exchange notes that listing and trading Bitcoin ETP options on the Exchange will subject such options to transparent exchange- based rules as well as price discovery and liquidity, as opposed to alternatively trading such options in the OTC market. The Exchange believes that the proposed rule change may relieve any burden on, or otherwise promote, competition as it is designed to increase competition for order flow on the Exchange in a manner that is beneficial to investors by providing them with a lower-cost option to hedge their investment portfolios. The Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues that offer similar products. Ultimately, the Exchange believes that offering Bitcoin ETP options for trading on the Exchange will promote competition by providing investors with an additional, relatively low-cost means to hedge their portfolios and meet their investment needs in connection with bitcoin prices and bitcoin-related products and positions on a listed options exchange.

[26] *Id.*

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

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

A. by order approve or disapprove such proposed rule change, or

B. institute proceedings to determine whether the proposed rule change should be 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–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–PEARL–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–PEARL–2024–03 and should be submitted on or before February 15, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[27]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024–01387 Filed 1–24–24; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99393; File No. SR–OCC–2024–001]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of Proposed Rule Change by The Options Clearing Corporation Concerning Its Process for Adjusting Certain Parameters in Its Proprietary System for Calculating Margin Requirements During Periods When the Products It Clears and the Markets It Serves Experience High Volatility

January 19, 2024.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act'' or ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 10, 2024, The Options Clearing Corporation (''OCC'') 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 primarily by OCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

This proposed rule change would codify OCC's process for adjusting certain parameters in its proprietary system for calculating margin requirements during periods when the products OCC clears and the markets it serves experience high volatility. Proposed changes to OCC's Margin Policy are submitted in Exhibit 5 to File No. SR–OCC–2024–001. Material proposed to be added is marked by underlining and material proposed to be deleted is marked with strikethrough text. All terms with initial capitalization that are not otherwise defined herein have the same meaning as set forth in the OCC By-Laws and Rules.[3]

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC 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. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

OCC is the sole clearing agency for standardized equity options listed on national securities exchanges registered with the Commission. OCC also clears certain stock loan and futures transactions. In its role as a clearing agency, OCC guarantees the performance of its Clearing Members for all transactions cleared by OCC by becoming the buyer to every seller and the seller to every buyer (or the lender to every borrower and the borrower to every lender, in the case of stock loan transactions). These clearing activities could expose OCC to financial risks if a Clearing Member fails to fulfil its obligations to OCC. In its role as guarantor for all transactions cleared through OCC, one of the more material risks related to a Clearing Member's failure to perform is credit risk arising from the activity of the Clearing Members whose performance OCC guarantees. OCC manages these financial risks through financial safeguards, including the collection of margin collateral from Clearing Members designed to, among other things, address the market risk associated with a Clearing Member's positions during the period of time OCC has determined it would take to liquidate those positions.

OCC has established a proprietary system, the System for Theoretical Analysis and Numerical Simulation (''STANS''), that runs various models used to calculate each Clearing Member's margin requirements. One of OCC's margin models generates variance forecasts for the returns on individual equity securities, the result of which OCC then includes as one of the inputs to the margin calculation. As discussed in more detail below, OCC has observed that this particular model may produce results that are ''procyclical,'' which means that changes in margin requirements produced by the model may be positively correlated with the overall state of the market and, if not appropriately addressed, could threaten the stability of its members during periods of heightened volatility.[4] For example, procyclicality may be evidenced by increasing margin in times of stressed market conditions and low margin when markets are calm. A sudden, extreme increase in margin requirements could stress a Clearing Member's ability to obtain liquidity to meet its obligations to OCC, particularly in periods of high volatility. If that Clearing Member subsequently defaulted, the resulting suspension and liquidation of the defaulting Clearing Member's positions could result in losses chargeable to the mutualized Clearing Fund.[5] Charging a loss to the Clearing Fund may result in unexpected costs for non-defaulting Clearing Members, stressing their ability to obtain liquidity to meet their own financial obligations in stressed market conditions.

[27] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] OCC's By-Laws and Rules can be found on OCC's public website: *https://www.theocc.com/Company-Information/Documents-and-Archives/By-Laws-and-Rules.*

[4] *See* Standards for Covered Clearing Agencies, Exchange Act Release No. 78961 (Sept. 28, 2016), 81 FR 70786, 70816 n.318 (S7–03–14) (''In this context, procyclicality typically refers to changes in risk-management practices that are positively correlated with market, business, or credit cycle fluctuations that may cause or exacerbate financial [in]stability.'').

[5] A mutualized, pre-funded guaranty fund comprised of deposits from each member, such as OCC's Clearing Fund, is another financial safeguard commonly employed by central counterparties to address credit risk as the guarantor of the products it clears.

Regulations applicable to OCC require it to take certain measures with respect to its margin models during periods of time when the products cleared or markets served display high volatility. For example, the SEC's Standards for Covered Clearing Agencies require OCC to establish policies and procedures related to the review of OCC's model parameters [6] during periods of time when the products cleared or markets served display high volatility, report the results to appropriate decisionmakers, and use the results to evaluate the adequacy of and adjust its model parameters.[7] OCC understands that, in implementing standards for central counterparties, U.S. regulators chose not to adopt the types of prescriptive procyclicality controls codified by financial regulators in other jurisdictions.[8] Accordingly, regulatory guidance applicable to OCC provides that a clearing agency should consider whether its margin model, ''to the extent practicable and prudent, limits the need for destabilizing, procyclical changes.'' [9]

To mitigate procyclical margin requirements during periods when OCC's cleared products or the markets its serves experience high volatility, OCC has established regular and high volatility control settings under its margin methodology. OCC's price return model employs bounds (*i.e.,* the ''control sets'' implemented under regular or high volatility settings) for certain parameters that are calculated daily based on current market data.[10] When OCC implements high volatility control settings, those parameters are bounded differently than under regular control settings. In general, these control settings help to prevent significant overestimation of Clearing Member margin requirements.[11]

To determine when implementation of high volatility control settings may be appropriate, OCC monitors the volatility of the products it clears and the markets it serves. Based on the results of this monitoring, OCC may determine to implement high volatility control settings for those model parameters. Under OCC's margin methodology, these high volatility control settings may be applied to individual securities, which are among several ''risk factors'' under OCC's margin methodology, or globally across a class of risk factors (*e.g.,* equities, indexes, volatility-based products, etc.).

OCC previously described its use of high volatility control settings within STANS in its filing to establish its STANS Methodology Description.[12] The STANS Methodology Description, however, does not provide specific details around the process for setting or applying high volatility control settings. To ensure that OCC's rules include a sufficient level of detail about material aspects of OCC's margin system, OCC proposes to amend its Margin Policy, which is filed as a rule with the Commission,[13] to define material aspects of the high volatility control setting process. This proposed rule change would amend the Margin Policy to describe the process, including: (1) how OCC sets and reviews the regular and high volatility control sets; (2) how OCC monitors for market volatility and idiosyncratic price moves and establishes thresholds to escalate the results of such monitoring for consideration of whether high volatility control settings are warranted; and (3) OCC's internal governance for implementing and terminating high volatility control settings. OCC does not believe that proposed revisions to its Margin Policy would have any practical effect on Clearing Members or other market participants because OCC is not proposing to change its current practices for setting member margin requirements.

(1) Purpose

Background

STANS is OCC's proprietary risk management system for calculating Clearing Member margin requirements.[14] The STANS methodology utilizes large-scale Monte Carlo simulations to forecast price and volatility movements in determining a Clearing Member's margin requirement.[15] STANS margin requirements are calculated at the portfolio level of each Clearing Member account with positions in marginable securities and is comprised of an estimate of a 99% expected shortfall [16] over a two-day time horizon, among other components. OCC uses the STANS methodology to measure the exposure of portfolios of products cleared by OCC and cash instruments in margin collateral.[17]

[6] In general, a margin model parameter is a value estimated from market or portfolio data used by OCC's margin models for the purpose of calculating Clearing Member margin requirements. The value of the parameter is associated with a specific point in time and may change based on updates to the data used in its estimation.

[7] *See* 17 CFR 240.17Ad–22(e)(6)(vi)(C), (D).

[8] *Compare* Standards for Covered Clearing Agencies, Exchange Act Release No. 78961, 81 FR 70819 (''[A] covered clearing agency generally should consider in establish and maintaining policies and procedures for margin . . . whether the model . . . to the extent practicable and prudent, limits the need for destabilizing, procyclical changes.''), *and* Central Counterparty (CCP) Risk and Governance Subcommittee, Market Risk Advisory Committee of the U.S. Commodity Futures Trading Commission (''CFTC''), *Recommendations Regarding CCP Margin Methodologies,* at 1 (Feb. 12, 2021), *available at https://www.cftc.gov/media/5776/GMAC_031121WFE/download* (describing the CFTC's ''principle-based approach to addressing procyclical risk'' under CFTC Regulation 39.13), *with* Article 41, Regulation (EU) No 648/2012 of 4 July 2012 of the European Parliament and Council on OTC derivatives, central counterparties and trade repositories (requiring CCPs to ''regularly monitor and, if necessary, revise the level of its margins to reflect current market conditions taking into account any potentially procyclical effects of such revisions''), *and* Article 28, Regulatory technical standards on CCPs *i.e.* Commission Delegated Regulation (EU) No 153/2013 of 19 December 2012 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to regulatory technical standards on requirements for CCPs (requiring CCPs to adopt one of three anti-procyclicality margin measures).

[9] Standards for Covered Clearing Agencies, Exchange Act Release No. 78961, 81 FR 70819.

[10] *See infra* notes 25–28 (describing the parameters to which the bounds are applied).

[11] *See infra* notes 33–34 and accompanying text (detailing examples in which high volatility control settings were implemented).

[12] *See infra* notes 29–30 and accompanying text.

[13] *See* Exchange Act Release Nos. 99169 (Dec. 14, 2023), 88 FR 88163 (Dec. 20, 2023) (SR–OCC–2023–008); 98101 (Aug. 10, 2023), 88 FR 55775 (Aug. 16, 2023) (SR–OCC–2022–012); 96566 (Dec. 22, 2022), 87 FR 80207 (Dec. 29, 2022) (SR–OCC–2022–010); 91079 (Feb. 8, 2021), 86 FR 9410 (Feb. 12, 2021) (SR–OCC–2020–016); 90797 (Dec. 23, 2020), 85 FR 86592 (Dec. 30, 2020) (SR–OCC–2020–014); 87718 (Dec. 11, 2019), 84 FR 68992 (Dec. 17, 2019) (SR–OCC–2019–010); 86436 (July 23, 2019), 84 FR 36632 (July 29, 2019) (SR–OCC–2019–006); 86119 (June 17, 2019), 84 FR 29267 (June 21, 2019) (SR–OCC–2019–004); 83799 (Aug. 8, 2018), 83 FR 40379 (Aug. 14, 2018) (SR–OCC–2018–011); 82658 (Feb. 7, 2018), 83 FR 6646 (Feb. 14, 2018) (SR–OCC–2017–007).

[14] An overview of the STANS methodology is on OCC's public website: *https://www.theocc.com/Risk-Management/Margin-Methodology.*

[15] *See* OCC Rule 601.

[16] The expected shortfall component is established as the estimated average of potential losses higher than the 99% value at risk threshold. The term ''value at risk'' or ''VaR'' refers to a statistical technique that is used in risk management to measure the potential risk of loss for a given set of assets over a particular time horizon.

[17] Pursuant to OCC Rule 601(e)(1), OCC also calculates initial margin requirements for segregated futures accounts on a gross basis using the Standard Portfolio Analysis of Risk Margin Calculation System (''SPAN''). CFTC Regulation 39.13(g)(8), requires, in relevant part, that a derivatives clearing organization (''DCO'') collect initial margin for customer segregated futures accounts on a gross basis. While OCC uses SPAN to calculate initial margin requirements for segregated futures accounts on a gross basis, OCC believes that margin requirements calculated on a net basis (*i.e.,* permitting offsets between different customers' positions held by a Clearing Member in a segregated futures account using STANS) affords OCC additional protections at the clearinghouse level against risks associated with liquidating a Clearing Member's segregated futures account. As a result, OCC calculates margin requirements for segregated futures accounts using both SPAN on a gross basis and STANS on a net basis, and if at any time OCC staff observes a segregated futures account where initial margin calculated pursuant to STANS on a net basis exceeds the initial margin

Continued

Forecasted returns on individual risk factors are an input to OCC's calculation of margin requirements. A ''risk factor'' within STANS is a product or attribute whose historical data is used to estimate and simulate the risk for an associated product. Risk factors include the returns on individual equity securities, returns on equity indexes, and returns on implied volatility risk factors, among others.

OCC uses a GARCH [18] model to generate variance forecasts for price risk factors for all products and implied volatility with respect to certain products. Following February 5, 2018, when the market experienced extreme levels of volatility that caused a significant spike in margin requirements, OCC's analysis demonstrated that GARCH is extremely sensitive to sudden spikes in volatility, which can result in margin requirements that OCC believes are unreasonable and procyclical.[19] For example, OCC observed that its GARCH model for forecasting implied volatility [20] produced forecasts for particular S&P 500 Index (''SPX'') options that were four-fold larger than the comparable market index. This led to margin requirements increasing by 80% overnight, with some margin requirements increasing ten-fold. In reviewing OCC's analysis, the Commission acknowledged that the size of such margin requirement increases was not necessarily commensurate with the risk of those Clearing Member's portfolios, and that imposing such a large, unexpected increase could impose a large, unexpected stress on a Clearing Member during a period of high volatility.[21] Since then, OCC has taken several measures to mitigate such procyclicality, including changes to its GARCH-based implied volatility model,[22] and a new model to replace GARCH for simulating implied volatility for SPX-based options and volatility index futures.[23] Even with such revisions, however, the GARCH model may produce procyclical margin results that are not commensurate with the risk of the products, portfolios, or markets that OCC seeks to manage.[24]

To mitigate such procyclicality, OCC also applies numerical constraints to certain statistical parameters that inform the model's reaction to market volatility. Specifically, the GARCH model uses statistical alpha (α),[25] beta (β),[26] and gamma (γ) [27] parameters as part of its econometric model for updating risk factors to reflect the most recent market data. Those statistical parameters are calculated daily based on updated price data.[28] As described in OCC's STANS Methodology Description,[29] OCC applies numerical constraints (*i.e.,* ''control settings'') to these GARCH parameters after their initial calibration to mitigate the reactivity of the model volatility forecast, which is a primary driver of margin requirements for any equity or index.[30] These constraints apply to the calculation of margin for each Clearing Member.

OCC refers to the constraints applicable under normal market conditions as ''regular'' control settings. The STANS Methodology Description further provides that OCC maintains projections of various market conditions in which pre-determined constraints (*i.e.,* a control set) are appropriate and that specification of those conditions and the control sets are based on continual quantitative research and may be specific to risk factor types (*e.g.,* equities or volatility indexes). The STANS Methodology Description further provides that the assumptions and individual application of the parameter controls for risk factors and classes of risk factors are subject to periodic review and approval by OCC's Model Risk Working Group (''MRWG''), a cross-functional group responsible for assisting OCC's management in overseeing OCC's model-related risk comprised of representatives from relevant OCC business units, including Quantitative Risk Management, Model Risk Management, and Corporate Risk Management. OCC refers to implementation of high volatility control settings to an individual risk factor as ''idiosyncratic'' control settings and implementation across all or a class of risk factors as ''global'' control settings.

OCC has implemented global settings on only a few occasions. For example, OCC implemented global control settings for equities, indexes, volatility-based products and short ETF products from March 9, 2020 until April 9, 2020 in connection with the market volatility associated with the onset of the COVID–19 pandemic and on January 27, 2021 for volatility-based products in connection with market volatility caused by the so-called ''meme stock'' episode. On March 9, 2020, for example, when the SPX experienced a return of approximately –7.5%, coverage for SPX options under regular control settings would have increased from long coverage [31] of −11.77% and short coverage of 11.69% to –18.54% and 19.44%, respectively.[32] MRWG approved implementing global control settings based on a 50% weighting between regular and high volatility control settings, resulting in long and short coverage of –13.60% and 14.42%. These coverages were selected based on their alignment with the two-day short and long coverage determined from SPX implied volatility; −13% and 14%, respectively.[33] Aggregate margin

calculated pursuant to SPAN on a gross basis, OCC collateralizes this risk exposure by applying an additional margin charge in the amount of such difference to the account. *See* Exchange Act Release No. 72331 (June 5, 2014), 79 FR 33607 (June 11, 2014) (SR–OCC–2014–13).

[18] The acronym ''GARCH'' refers to an econometric model that can be used to estimate volatility based on historical data.

[19] *See* Exchange Act Release No. 84879 (Dec. 20, 2018), 83 FR 67392, 67393 (Dec. 29, 2018) (SR–OCC–2018–014).

[20] In general, the implied volatility of an option is a measure of the expected future volatility of the option's underlying security at expiration, which is reflected in the current option premium in the market.

[21] *See* Exchange Act Release No. 84879, 83 FR 67394.

[22] *See id.* at 67393.

[23] See Exchange Act Release No. 95319 (July 19, 2022), 87 FR 44167 (July 25, 2022) (SR–OCC–2022–001).

[24] *See supra* note 11 and accompanying text.

[25] Alpha is the weight attached to the contribution to the forecast variance from the price risk factor. Together with gamma, it controls the model's reaction to recent market moves.

[26] Beta is the weight attached to the contribution to the forecast variance from the previous day's forecast. As such, it concerns the persistence of volatility.

[27] Gamma is the additional weight attached to the contribution to the forecast variance from a negative return in the price risk factor. Together with alpha, it controls the model's reaction to recent market moves.

[28] *See* Exchange Act Release No. 83326 (May 18, 2018), 83 FR 25081 (May 31, 2018) (SR–OCC–2017–022); Exchange Act Release No. 83305 (May 23, 2018), 83 FR 24536 (May 29, 2018) (SR–OCC–2017–811).

[29] The STANS Methodology Description is intended to provide a comprehensive description of the material aspects of OCC's risk-based margin system. *See* Exchange Act Release No. 91079, 86 FR at 9410 (SR–OCC–2020–016).

[30] *See* Exchange Act Release No. 85788 (Dec. 21, 2020), 85 FR 85788, 85793 (Dec. 29, 2020) (SR–OCC–2020–016) (''The STANS Methodology Description would also describe the controls that may be placed on the GJR–GARCH parameters after their initial calibration. GARCH volatility forecasting models can be very reactive in certain market environments. As a result, OCC may implement parameter controls for risk factors and classes of risk factors, which are subject to periodic review and approval by the MRWG.'').

[31] In this context, the coverage rate for a security is the change in risk of the security express as a percentage of the price of the security when the market closes.

[32] OCC has included as confidential Exhibit 3A to File No SR–OCC–2024–001 responses to questions from OSC concerning drafts of this proposed rule change, including data concerning the coverage rates under control sets reviewed by the MRWG on March 9, 2020.

[33] OCC has also included as confidential Exhibit 3B to SR–OCC–2024–001 an internal OCC memorandum concerning high volatility control settings describing, among other things, how when

requirements calculated using the global control settings were $84.2 billion, compared to $103.2 billion had OCC used regular control settings.[34]

OCC has implemented idiosyncratic control settings for individual risk factors more frequently.[35] For example, on April 28, 2023, FRM implemented idiosyncratic control settings with respect to a risk factor for a security that experienced multi-day jumps in stock price,[36] including from $6.72 to $20 on April 27, 2023 and from $20 to $108.20 on April 28, 2023, which resulted in corresponding short coverage levels under regular control settings increasing from 98% to 5695%.[37] After implementing idiosyncratic control settings for that risk factor, aggregate margin requirements decreased $2.6 billion. OCC did not observe any daily backtesting exceedances associated with implementing idiosyncratic control settings for this risk factor.

In general, OCC has not observed backtesting exceedances attributable to the implementation of global or idiosyncratic volatility control settings. Currently, OCC monitors margin sufficiency at the Clearing Member account level to identify backtesting exceedances. Account exceedances are investigated to determine the cause of the exceedance, including whether the exceedance can be attributed to the implementation of high volatility control settings. No account level exceedance has been attributed to the implementation of high volatility control settings. OCC also performs model backtesting on all risk factors with listed derivatives or stock loan positions, or securities pledged as collateral within Clearing Member accounts, including for risk factors subject to high volatility control settings. Model backtesting has not identified an issue with the adequacy of margin coverage associated with the implementation of idiosyncratic control settings. OCC also conducted instrument-level backtesting over a two-year time horizon on securities for which idiosyncratic control settings were implemented. Of the 14 out of 244 securities for which 2-day expected shortfall coverages was less than 99%, OCC found that the coverages with regular control settings would not have been significantly different.[38] Only one risk factor had 2-day expected shortfall short coverage under 99% while on idiosyncratic control settings that would have been above 99% on regular control settings, driven by one additional 2-day expected shortfall short exceedance.[39] However, this single occurrence did not contribute to any Clearing Member account-level exceedance. Based on this study, OCC believes that application of high volatility control settings does not have a significant negative effect on the sufficiency of OCC's margin coverage.

Proposed Changes

OCC proposes to amend its Margin Policy to add a new section[40] addressing control settings so that OCC's rules would include a sufficient level of detail about the high volatility control setting process currently maintained in other internal OCC procedures, including (1) how OCC sets and reviews the regular and high volatility control sets; (2) how OCC monitors for market volatility and idiosyncratic price moves and establishes thresholds to escalate the results of such monitoring for consideration of whether high volatility control settings are warranted; and (3) OCC's internal governance for implementing and terminating high volatility control settings.

(1) *How OCC Sets and Reviews Regular and High Volatility Control Sets*

First, OCC proposes to amend the Margin Policy to add a subsection under the new control settings section that would address how OCC reviews and sets the regular and high volatility control sets (*i.e.,* the bounds applied to the GARCH parameters under regular and idiosyncratic control settings).[41] The Margin Policy would require that FRM conduct a review of the control sets on an at-least annual basis, and any recommended changes would require MRWG approval. With respect to the regular control set, the Margin Policy would further provide that such review would assess whether the GARCH parameter bounds are appropriately risk-based, including, but not limited to, assessing whether they align with the 95th percentile of the parameter calibrations over the prior review period. The Margin Policy would further provide that the review of the high volatility control set would assess whether the control settings effectively mitigate procyclicality while remaining appropriately risk-based, including, but not limited to, whether the bounds keep the day-over-day change in 2-day expected shortfall coverage within a factor of approximately 1.5 assuming price shocks based on observed returns for top risk factors.[42] These additions to the Margin Policy are intended to describe OCC's current process and internal procedures for setting the regular and idiosyncratic control sets.[43]

(2) How OCC Monitors for and Escalates High Volatility to Appropriate Decisionmakers

OCC currently conducts daily monitoring for high market volatility and idiosyncratic price moves for individual securities against thresholds that, if breached, would require escalation to appropriate

implementing global control settings on March 9, 2020, the MRWG compared resulting coverages from different weightings against the coverage rates that could be derived through implied option volatility to evaluate of coverage rates under alternative parameters sets.

[34] OCC has included as confidential Exhibit 3C to SR–OCC–2024–001 responses to questions from Staff of the Commission's Office of Clearance and Settlement (''OSC'') dated November 20, 2020 concerning OCC's March 9, 2020 implementation of global control settings, including, among other things, as assessment of the impact on margin.

[35] From December 2019 to August 2023, for example, OCC implemented high volatility control settings lasting various durations (ranging from a single day to 190 days, with a median period of 10 days) for more than 200 individual risk factors. *See* Exhibit 3A, *supra* note 32 (providing a list of instances in which OCC implemented global and idiosyncratic control settings).

[36] While no options were listed on the security, certain Clearing Members maintained cleared stock loan positions and collateral deposits in that security.

[37] *See* Exhibit 3A, *supra* note 32 (providing responses concerning an April 28, 2023 implementation of idiosyncratic control settings).

[38] *See* Exhibit 3A, *supra* note 32 (providing responses to requests for backtesting data and analysis).

[39] *Id.*

[40] This new section would be added to the ''Margin Methodology'' section of the Margin Policy and the subsections would be renumbered to reflect the addition.

[41] The high volatility control value sets are sometimes referend to as idiosyncratic control settings because, in practice, the high volatility control set is what OCC applies when implementing idiosyncratic control settings. As discussed above, when implementing global control settings, MRWG evaluates and selects a control setting with different weightings between the regular control set and high volatility control set based on an assessment of which blended approach generates a coverage level that converges with the implied volatility of the SPX. *See supra* note 33 and accompanying text.

[42] The return shocks are maintained in and updated in accordance with model whitepapers that support the STANS Methodology Description. The current return shocks for index and volatility products are based on the largest observed downward and updated price moves, respectively. The current return shock for equities is a −15% return based on large observed negative returns for a sample of individual equites. OCC has included the model whitepaper as confidential Exhibit 3D to File No. SR–OCC–2024–001. The whitepaper is redlined with anticipated updates based on the most recent annual review of the high volatility control setting process and edits intended to capture feedback from OSC staff in connection with its review of a draft of this proposal.

[43] OCC has included the periodic reviews presented to MRWG since 2020 in confidential Exhibit 3E to File No. SR–OCC–2024–001. OCC believes that such changes to the control sets would be reasonably and fairly implied by the Margin Policy, as proposed to be amended.

decisionmakers to evaluate the adequacy of and make adjustments to OCC's model parameters. Specifically, Pursuant to the Clearing Fund Methodology Policy and the procedures thereunder, OCC has established thresholds related to high market volatility, low market liquidity, and significant increases in position size or concentration that would trigger an intra-month meeting of the MRWG to review stress test results.[44] The underlying procedure refers to such thresholds as ''CCA Monitoring Thresholds'' because they are associated with SEC requirements for when a covered clearing agency must perform certain required monthly reviews on a more frequent basis.[45]

While these thresholds are set in accordance with the Clearing Fund Methodology Policy with respect to its stress testing procedures, OCC uses the same thresholds as triggers for review of its risk-based margin system, including (1) more frequent sensitivity analysis of its margin model and a review of OCC's parameters and assumptions for backtesting, and (2) with respect to the high volatility threshold, escalation to the MRWG for consideration of whether to implement global control settings. However, unlike the Clearing Fund Methodology Policy, the Margin Policy does not currently reference how the thresholds are set. As proposed to be amended, the ''Margin Monitoring'' section of the Margin Policy would be amended to add a discussion of the CCA Monitoring Thresholds.[46] That section would refer to the CCA Monitoring Thresholds established under the Clearing Fund Methodology Policy and its underlying procedure. The Margin Policy would further provide that the CCA Monitoring Thresholds are reviewed annually by the MRWG and the Stress Testing Working Group (''STWG'') to ensure they remain adequate to identify periods of high market volatility,[47] low market liquidity, and significant increases in position size/concentration. The MRWG and STWG would be required to approve any changes to the thresholds.

To monitor for volatility experienced by individual risk factors that may merit implementing idiosyncratic control settings, the Margin Policy would require FRM to monitor securities against thresholds for idiosyncratic price moves that would be established in its procedures (''Idiosyncratic Thresholds'').[48] The Idiosyncratic Thresholds may employ a tiered structure that takes into account the type and magnitude of OCC's risk exposure to the security (*e.g.,* whether it is an optionable security with open interest, accepted as collateral, and/or an Eligible Security under OCC's Stock Loan Programs), the value of the security, the magnitude of the price move, and the coverage rates.[49] The Margin Policy would further reflect that on an at-least annual basis, FRM reviews whether the Idiosyncratic Thresholds, and the related instances when idiosyncratic control settings were applied during the review period, appropriately capture products experiencing high volatility. Any change to the Idiosyncratic Thresholds would require MRWG review and approval.

(3) How OCC Implements and Terminates High Volatility Control Settings

When the monitoring thresholds discussed above are breached, appropriate decisionmakers at OCC determine whether to implement idiosyncratic or global control settings. Specifically, for breaches of the CCA Monitoring Threshold for high volatility, the Margin Policy would require that FRM escalate the matter to the MRWG and make a recommendation as to whether global control settings should be applied to all risk factors or a class of risk factors. The Margin Policy would require MRWG approval to implement global control settings. In making that determination, the Margin Policy would describe how MRWG would review coverage rates under potential control settings generated by taking a weighting of the bounds for regular and high volatility control sets. The Margin Policy would further require that MRWG make this determination considering factors including, but not limited to, which blended control value sets generate coverage levels that converge with the implied volatility of the SPX.

The Margin Policy would also provide for how OCC would revert back to regular control settings after having implemented global control settings. Such reversion would also require MRWG approval. The Margin Policy would further provide that when making a determination that market volatility has decreased to a level where global control settings are no longer required, the MRWG would consider factors including, but not limited to, whether SPX coverage rates produced under regular control settings have converged with the initial coverage rates when global control settings were first implemented.

With respect to breaches of the Idiosyncratic Thresholds, the Margin Policy would provide that FRM maintains authority to implement idiosyncratic control settings for an individual risk factor. Implementation of such idiosyncratic high volatility control settings would require approval of an FRM Officer.[50] In practice, FRM applies the high volatility control set to a risk factor each time the Idiosyncratic

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[44] *See* Exchange Act Release No. 83406 (June 11, 2018), 83 FR 83406 (June 15, 2018) (SR–OCC–2018–008) (describing how the Clearing Fund Methodology Policy ''would require that OCC maintain procedures for determining whether, and in which circumstances'' stress testing review must be completed more frequently than monthly ''when the products cleared or markets served display high volatility,'' among other possible triggers).

[45] *See* 17 CFR 17Ad–22(e)(4)(iv)(C) (with respect to stress testing); 17Ad–22(e)(6)(vi)(C) (with respect the risk-based margin system); 17Ad–22(e)(7)(vi)(C) (with respect to liquidity resource sufficiency).

[46] The subsections in the ''Margin Monitoring'' section would be renumbered accordingly to reflect this addition.

[47] With respect to the high market volatility thresholds relevant to this filing, OCC's current thresholds are based on a statistical 1-in-18 month return calculated daily from the previous 10 years of market data for the S&P 500 and VIX indexes. As of August 3, 2023, the thresholds translated to a 38.12% return for VIX and a −4.52% return for the SPX. Developmental evidence supporting the CCA Monitoring Threshold for high volatility has been provided in the model whitepaper. *See* Exhibit 3D, *supra* note 42. However, as discussed above, the CCA Monitoring Thresholds and the method for reviewing and updating them would be maintained in the procedures supporting the Clearing Fund Methodology Policy. As such, OCC believes the CCA Monitoring Thresholds for high volatility and updates thereto consistent with the Margin Policy would be reasonably and fairly implied by the Margin Policy.

[48] OCC has included a copy of these procedures as Exhibit 3F to File No. SR–OCC 2024–001, which are redlined with anticipated changes arising from feedback received from OSC staff in connection with a review of a draft of this proposed rule change.

[49] *See id.* Currently, FRM Staff reviews a daily report of projected coverages for selected risk factors (excluding securities that do not have listed options and are not eligible as either collateral or as part of OCC's Stock Loan Programs) with an absolute value of simple return greater than 20% or, for securities under $1 or are missing a current or prior days' closing price, with an absolute value of log return greater than 100%. Securities meeting these thresholds are then filtered to identify those with more than $100 million in prior day risk exposure and a greater-than 3 times day-over-day increase in coverage. In addition, the thresholds filter for those securities for which regular parameter short coverages is greater than 350%. With respect to securities without listed options, the short coverage threshold also requires that the prior day risk exposure be greater than $10 million. As discussed below, the Idiosyncratic Thresholds would be maintained in procedures supporting the Margin Policy, reviewed at-least annually, and updated with MRWG approval. As such, OCC believes the Idiosyncratic Thresholds and updates thereto consistent with the Margin Policy would be reasonably and fairly implied by the Margin Policy.

[50] Officers are identified in OCC's By-Laws. *See* OCC By-Law Art IV. In this context, an FRM officer would include any member of FRM appointed by the Chief Executive Officer or Chief Operating Officer, including a Managing Director, Executive Director or Executive Principal. *See id.* § 9.

Thresholds are breached. However, the FRM Officer would retain authority under the Margin Policy to maintain regular control settings in the case of exceptional circumstances, including, for example, due to implementation of global control settings, operational issues such as production processing problems, or edge cases for which the FRM Officer determines that further refinement of the Idiosyncratic Thresholds is warranted. If the FRM Officer determines not to implement idiosyncratic control settings in edge cases, the Margin Policy would require that the FRM Officer present proposed changes to the Idiosyncratic Thresholds that reflect the exception within 30 days to the MRWG for review and, subject to MRWG discretion, approval. The Margin Policy would also provide for an FRM Officer's authority to approve idiosyncratic control settings based on additional considerations such as market moves, expected shortfall risk contribution, and changes in Clearing Member positions.[51]

Finally, the Margin Policy would provide for reversion from idiosyncratic control settings to regular control settings. Specifically, the Margin Policy would provide that generally, an FRM Officer will approve such reversion when the coverage rates under the regular control set converges with the initial coverage rate when idiosyncratic control settings were first implemented or when the coverage rates decline to or below the coverage rate under the Idiosyncratic Thresholds that triggered the idiosyncratic control settings.[52] However, to account for possible unforeseen and unanticipated situations, the Margin Policy would provide that idiosyncratic control settings may be applied for a longer or shorter period at the discretion of the FRM Officer.

(2) Statutory Basis

OCC believes that the proposed rule change is consistent with Section 17A of the Exchange Act[53] and the rules and regulations thereunder applicable to OCC. Section 17A(b)(3)(F) of the Act[54] requires, in part, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions, and in general, to protect investors and the public interest. The proposed changes are intended to codify OCC's process for adjusting parameters in STANS in response to broad market volatility or idiosyncratic price moves for individual securities. As discussed above, the GARCH model has been observed to overreact to changes in volatility.[55] Such sudden increases in margin requirements may stress certain Clearing Members' ability to obtain liquidity to meet those requirements, particularly in periods of high volatility, and could result in a Clearing Member being delayed in meeting, or ultimately failing to meet, its daily settlement obligations to OCC. A resulting suspension of a defaulting Clearing Member may result in losses chargeable to the mutualized Clearing Fund deposits of non-defaulting Clearing Members, which could result in unexpected costs for those Clearing Members. The proposed changes are intended to support the high volatility control settings process designed to mitigate the procyclicality of its GARCH model that may cause or exacerbate such financial instability. For these reasons, OCC believes the proposed changes to OCC's rules would support processes reasonably designed to promote the prompt and accurate clearance and settlement of securities transactions, and in general, to protect investors and the public interest, in accordance with Section 17A(b)(3)(F) of the Act.[56]

OCC believes that the proposed changes are also consistent with SEC Rule 17Ad–22(e)(6), which requires, in part, that a covered clearing agency establish, implement, maintain and enforce written policies and procedures reasonably designed to cover its credit exposures to its participants by establishing a risk-based margin system that, at a minimum, considers, and produces margin levels commensurate with, the risks and particular attributes of each relevant product, portfolio, and market.[57] Commission guidance with respect to SEC Rule 17Ad–22(e)(6) further provides that a covered clearing agency should consider whether its margin model, ''to the extent practicable and prudent, limits the need for destabilizing, procyclical changes.'' [58] As noted above, OCC's GARCH model demonstrates sensitivity to sudden spikes in volatility, which can at times result in overreactive margin requirements that OCC believes are unreasonable and procyclical.[59] Based on its analysis,[60] OCC believes that the high volatility control settings reduce the oversensitivity of the variance forecasts for price risk factors while continuing to produce margin levels commensurate with the risks presented during periods of sudden, extreme volatility, consistent with Rule 17Ad–22(e)(6)(i).[61]

SEC Rule 17Ad–22(e)(6) further requires that a covered clearing agency's policies and procedures be reasonably designed to monitoring its risk-based margin system on an ongoing basis, including by conducting a review of its parameters during periods of time when the products cleared or markets served display high volatility, report the results to appropriate decisionmakers, and use the results to evaluate the adequacy of and adjust its model parameters.[62] The proposed changes to the Margin Policy would require that (i) FRM monitor for periods when the products cleared or markets served display high volatility; (ii) FRM escalate the results of its monitoring to appropriate decisionmakers; and (iii) FRM or MRWG may implement high volatility control settings to adjust the GARCH model parameters based on specified criteria. OCC believes that FRM and MRWG are the appropriate decisionmakers for making determinations about these margin parameter adjustments because they are composed of the subject matter experts most familiar with the performance of and risks associated with OCC's margin models. In addition, OCC believes it appropriate that implementation of global control settings require MRWG approval. MRWG is comprised of both first- and second-line personnel, including personnel in OCC's Model Risk Management business unit, who, under OCC's Risk Management Framework, are responsible for evaluating model parameters and assumptions and providing effective and independent challenge through

[51] For example, an FRM Officer may use this authority to implement hypothetical scenarios for securities in cases where the securities fell just short of one element in the Idiosyncratic Thresholds' tiered structure, but where breaches of other elements weighed in favor of applying idiosyncratic control settings in the FRM Officer's judgment. *See* Exhibit 3A, *supra* note 32 (detailing an example in which an FRM Officer used this authority when a security was just below the $100 million threshold for prior day risk exposure, but an FRM Officer approved implementing idiosyncratic control settings based on the significant day-over-day increase to short coverage combined with the size of the exposure).

[52] For example, under the current Idiosyncratic Control Settings, discussed above in note 49, an FRM Officer would approve reverting to regular control settings when the short coverage declines to 350% or below.

[53] *See* 15 U.S.C. 78q–1.

[54] 15 U.S.C. 78q–1(b)(3)(F).

[55] *See supra* notes 19–23, 34–35, and accompanying text.

[56] *Id.*

[57] *See* 17 CFR 240.17Ad–22(e)(6)(i).

[58] Standards for Covered Clearing Agencies, Exchange Act Release No. 78961, 81 FR 70819.

[59] *See supra* notes 19–21 and accompanying text.

[60] *See supra* notes 38–39 and accompanying text.

[61] 17 CFR 240.17Ad–22(e)(6)(i).

[62] 17 CFR 240.17Ad–22(e)(6)(vi).

OCC's model lifecycle.[63] Accordingly, OCC believes that this cross-departmental group is the appropriate governing body for reviewing and approving such adjustments to OCC's model parameters during periods of high market volatility, consistent with Rules 17Ad–22(e)(6)(vi).[64]

In addition, OCC believes that proposed changes to promote aspects of the high volatility control setting process to OCC's rule-filed Margin Policy are consistent with Section 19(b) of the Exchange Act[65] and SEC Rule 19b–4[66] thereunder, which require a self-regulatory organization to file proposed rule changes with the Commission. In particular, SEC Rule 19b–4 provides that proposed rule changes subject to this filing requirement include stated policies, practices and interpretations of the self-regulatory organization, which the Commission defines to include, among other things, ''any material aspect of the operation of the facilities of the self-regulatory organization,''[67] regardless of whether the stated policy, practice or interpretation is made generally available. SEC Rule 19b–4 provides certain exceptions to the filing requirement, including if the stated policy, practice or interpretation is ''reasonably and fairly implied by an existing rule of the self-regulatory organization.''[68] OCC's use of high volatility control settings is currently addressed in OCC's STANS Methodology Description, a rule of OCC.[69] This proposed rule change would describe other aspects of the high volatility control setting process, including (1) how OCC establishes and maintains regular and high volatility control sets; (2) how OCC monitors for and escalates high market volatility and idiosyncratic price moves to appropriate decisionmakers for consideration of whether high volatility control settings are warranted; and (3) OCC's internal governance for implementing and terminating high volatility control settings. OCC believes that promoting these aspects of the high volatility control setting process to the Margin Policy would ensure that its rules contain sufficient detail about material aspects of its margin system.

OCC further believes that other internal procedures and technical documents concerning the execution of the high volatility control settings would be reasonably and fairly implied by its rules, as amended—including the regular and high volatility control sets, the thresholds used to escalate price movements and market volatility to appropriate decisionmakers to consider implementing high volatility control settings, and the method for reviewing and updating those control sets and thresholds based on the latest market data.[70] Continuing to maintain these details in OCC internal procedures that are reasonably and fairly implied by OCC's rules would allow OCC to adjust the high volatility control settings process in response to novel situations, changing market conditions and additional quantitative research as OCC's processes mature. Accordingly, OCC believes that the proposed rule change is consistent with Section 19(b) of the Exchange Act[71] and the regulations thereunder.

For the above reasons, OCC believes that the proposed rule change is consistent with Section 17A of the Exchange Act[72] and the rules and regulations thereunder applicable to OCC.

(B) Clearing Agency's Statement on Burden on Competition

Section 17A(b)(3)(I) of the Exchange Act[73] requires that the rules of a clearing agency not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed changes merely codify requirements related to the administration of OCC's high volatility control settings, which, when implemented, apply to all Clearing Members that hold cleared positions within the scope of the high volatility control settings. Accordingly, OCC does not believe that the proposed rule change would unfairly inhibit access to OCC's services.

While high volatility control settings implemented under the proposed changes may impact different accounts to a greater or lesser degree depending on the composition of positions in each account, OCC does not believe that such impacts would impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act. As discussed above, OCC is obligated under the Exchange Act and the regulations thereunder to review its model parameters during periods of time when the products cleared or markets served display high volatility, report the results to appropriate decisionmakers, and use the results to evaluate the adequacy of and adjust its model parameters.[74] As discussed above, OCC believes the proposed changes to its rules support a high volatility control setting process that is reasonably designed to monitor volatility in the products and markets served by OCC and escalate the results of that monitoring to appropriate OCC decisionmakers, who would evaluate whether adjustments to OCC's model parameters through use of control settings is warranted. In addition, the changes would support a process designed to mitigate procyclicality observed with the GARCH model, which OCC believes would help ensure that its margin requirements remain commensurate with the risks presented by its Clearing Members' activity, consistent with SEC Rule 17Ad–22(e)(6)(i).[75] Accordingly, OCC believes that the proposed rule change would not impose any burden or impact on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were not and are not intended to be solicited with respect to the proposed change and none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

The proposal shall not take effect until all regulatory actions required with respect to the proposal are completed.

[63] *See* Exchange Act Release No. 95842, 87 FR at 58413 (File No. SR–OCC–2022–010) (filing to establish OCC's Risk Management Framework). OCC Risk Management Framework is available on OCC's public website: *https://www.theocc.com/risk-management/risk-management-framework.*

[64] 17 CFR 240.17Ad–22(e)(6)(vi).

[65] 15 U.S.C. 78s(b).

[66] 17 CFR 240.19b–4.

[67] 17 CFR 240.19b–4(a)(6)(i).

[68] 17 CFR 240.19b–4(c)(1).

[69] *See supra* notes 29–30 and accompanying text.

[70] *See supra* notes 43, 47, and 49.

[71] 15 U.S.C. 78s(b).

[72] 15 U.S.C. 78q–1.

[73] 15 U.S.C. 78q–1(b)(3)(I).

[74] *See* 17 CFR 240.17Ad–22(e)(6)(vi)(C)–(D).

[75] 17 CFR 240.17Ad–22(e)(6)(i).

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–OCC–2024–001 on the subject line.

Paper Comments

- Send paper comments in triplicate to Vanessa Countryman, Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–OCC–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 OCC and on OCC's website at *https://www.theocc.com/Company-Information/Documents-and-Archives/By-Laws-and-Rules.*

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–OCC–2024–001 and should be submitted on or before February 15, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[76]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024–01386 Filed 1–24–24; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99392; File No. SR–OCC–2024–002]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of Proposed Rule Change Concerning Amendments to The Options Clearing Corporation's Rules, By-Laws, and Certain Clearing Member Documents

January 19, 2024.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act'' or ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 10, 2024, The Options Clearing Corporation (''OCC'' or ''Corporation'') 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 primarily by OCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

This proposed rule change would amend the OCC Rules, By-Laws, certain Clearing Member documents [3] in connection with the recent amendments adopted by the Commission to Rule 15c6–1(a) [4] under the Exchange Act. The amendments to Rule 15c6–1(a) [5] shorten the standard settlement cycle for most broker-dealer securities transactions from two business days after the trade date to one business day after the trade date.

The proposed changes are included in Exhibits 5A through 5F to File No. SR–OCC–2024–002. Material proposed to be added as currently in effect is underlined and material proposed to be deleted is marked in strikethrough text. All capitalized terms not defined herein have the same meaning as set forth in the OCC By-Laws and Rules.[6]

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC 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. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) Purpose

The proposed rule change consists of modifications to OCC Rules, By-Laws, and certain Clearing Member documents in connection with the recently adopted amendments to Commission Rule 15c6–1(a) to shorten the standard settlement cycle for most broker-dealer securities transactions from two business days after the trade date (''T+2'') to one business day after the trade date (''T+1'').[7] Specifically, OCC proposes to (i) revise provisions connected to late exercise that are impacted by a shortened settlement cycle, (ii) change timeframes related to the standard settlement cycle to reflect T+1, and (iii) make certain other conforming and clarifying changes. The compliance date regarding the amendments to Rule 15c6–1(a) is May 28, 2024.[8]

Background

Rule 15c6–1 establishes a standard settlement cycle for most purchases or sales of securities by broker-dealers. The Commission adopted Rule 15c6–1(a) in 1993 to establish T+3 as the standard trade settlement cycle (instead of five business days after the trade date), and it became effective in June 1995.[9] In

[76] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Clearing Member documents consist of contracts and forms, that in conjunction with OCC's By-Laws and Rules, establish and govern the relationship between OCC and each Clearing Member. *See* Exchange Act Release No. 73577 (Nov. 12, 2014), 79 FR 68733 (Nov. 18, 2014) (File No. SR–OCC–2014–20).

[4] 17 CFR 240.15c6–1(a).

[5] *Id.*

[6] OCC's By-Laws and Rules can be found on OCC's public website, *available https://www.theocc.com/Company-Information/Documents-and-Archives/By-Laws-and-Rules.*

[7] Exchange Act Release No. 96930 (Feb. 15, 2023), 88 FR 13872 (Mar. 6, 2023) (''T+1 Adopting Release'').

[8] *Id.*

[9] Exchange Act Release No. 33023 (Oct. 6, 1993), 58 FR 52891 (Oct. 13, 1993) (final rule adopting Rule 15c6–1); Exchange Act Release No. 34952 (Nov. 9, 1994), 59 FR 59137 (changing the effective date of the final rule from June 1, 1995 to June 7, 1995).

March 1995, the Commission approved changes to OCC's Rules that were proposed to ensure consistency with the new T+3 standard settlement cycle.[10] In 2017, the Commission amended Rule 15c6–1(a) to shorten the standard settlement cycle from T+3 to T+2.[11] In coordination with the Commission's designated September 2017 compliance date, OCC adopted changes to its Rules and By-Laws to ensure consistency with the new T+2 standard settlement cycle.[12]

Since the change to T+2, the Commission and the financial services industry have continued to explore the idea of shortening the settlement cycle even further. In February 2021, the Depository Trust and Clearing Corporation (''DTCC'') published a White Paper discussing the benefits of accelerated settlement beyond T+2.[13] Following the publication, the securities industry formed an Industry Steering Committee (''ISC'') and an Industry Working Group (''IWG'') to develop industry consensus to transition to an accelerated settlement cycle.[14] The ISC engaged Deloitte & Touche LLP (''Deloitte'') to support the effort, including facilitating analysis on the benefits and barriers to transitioning to T+1 and coordinating with the industry on the transition.[15] In December 2021, DTCC, SIFMA, and ICI, together with Deloitte, published a report containing the ISC's recommendations for migrating to a T+1 standard settlement cycle.[16]

On February 9, 2022, the Commission proposed amendments to Rule 15c6–1(a) to shorten the standard settlement cycle to T+1 on the basis that the shorter settlement cycle would reduce the credit, market and liquidity risks in securities transactions faced by market participants and U.S. investors.[17] On February 15, 2023, the Commission adopted these amendments to Rule 15c6–1(a).[18] In light of this action by the Commission, OCC proposes to implement the changes described herein in connection with the T+1 settlement cycle on the Commission's designated T+1 compliance date.

Proposed Changes

OCC proposes certain amendments in light of the anticipated industry move to a T+1 settlement cycle. OCC has determined that shortening the settlement cycle to T+1 would require revisions to OCC Rules, By-Laws, and Clearing Member documents, which are currently aligned with a T+2 settlement cycle. Specifically, OCC proposes to (i) revise provisions connected to late exercise that are impacted by a shortened settlement cycle, (ii) change timeframes related to the standard settlement cycle to reflect T+1, and (iii) make certain other conforming and clarifying changes.

(i) Provisions Connected to Late Exercise

OCC proposes to amend provisions in Chapter VIII of the Rules that are affected by a shortened settlement cycle. Rules 801 and 805 require Clearing Members to submit exercise notices within the timeframes prescribed by OCC.[19] These Rules currently set out an exception process to accommodate notices submitted after these timeframes. OCC's late exercise process provides final deadlines by which late exercise notices must be received by OCC and subjects Clearing Members to potential disciplinary action (as the filing of such notice may be deemed a violation) and liability for a late filing fee, among other things.[20] More specifically, subject to certain conditions, Rule 801, which addresses the exercise of options other than at expiration, allows a Clearing Member to file an exercise notice after the prescribed deadline solely for the purpose of correcting a bona fide error on the part of the Clearing Member or a customer and imposes liability for a late filing fee of $250,000 per line item listed on the notice. Similarly, OCC Rule 805, which addresses exercises on expiration, imposes liability for a late filing fee of $250,000 per line item on a Clearing Member that submits an exercise notice after the prescribed deadline.

OCC proposes to cease facilitating the late exercise process after the move to T+1. OCC reviewed its internal operational processes to assess the implications of the shortened settlement cycle on late exercises. Currently, when a late exercise is processed, OCC sends the delivery information to the National Securities Clearing Corporation (''NSCC'') for T+1 settlement.[21] Reducing the standard settlement time to T+1 would reduce the time available to OCC and NSCC to transmit information and perform operational and risk management steps associated with their arrangement. Specifically, moving to T+1 would require settlement activity from a late exercise to be sent to NSCC for same-day settlement, which is not supported by the Accord. Late exercise activity would thus not be guaranteed by NSCC, resulting in various implications, as the link between OCC and NSCC allows common clearing members, and their customers, to realize financial and operational efficiencies through the combined settlement of obligations from their OCC and NSCC cleared positions. OCC proposes to no longer accommodate late exercises due to operational challenges for same-day settlement and limitations under the Accord. Even if OCC were to find another operational mechanism outside of NSCC to process the settlement of a late exercise submission in a T+1 environment, any such processing would negate the settlement certainty for all market participants that the Commission seeks to achieve in its T+1 proposal.

OCC does not believe that such changes represent a significant departure from its current practices or the practices of other self-regulatory organizations. As described above, OCC's Rules allow OCC to prescribe timeframes during which Clearing

[10] Exchange Act Release No. 35552 (Mar. 30, 1995), 60 FR 17600 (Apr. 6, 1995) (SR–OCC–94–11).

[11] Exchange Act Release No. 80295 (Mar. 22, 2017), 82 FR 15564 (Mar. 29, 2017).

[12] Exchange Act Release No. 81008 (June 23, 2017), 82 FR 29598 (June 29, 2017) (SR–OCC–2017–015) (filed for immediate effectiveness on June 9, 2017).

[13] *See* DTCC, ''Advancing Together: Leading the Industry to Accelerated Settlement'' (Feb. 2021), *available at https://www.dtcc.com/-/media/Files/PDFs/White%20Paper/DTCC-Accelerated-Settle-WP-2021.pdf.*

[14] Exchange Act Release No. 94196 (Feb. 9, 2022), 87 FR 10436 (Feb. 24, 2022) (''T+1 Proposing Release'').

[15] *Id.*

[16] *See* Deloitte, DTCC, Investment Company Institute (''ICI''), and Securities Industry and Financial Markets Association (''SIFMA''), ''Accelerating the U.S. Securities Settlement Cycle to T+1'' (Dec. 1, 2021), *available at https://www.sifma.org/wp-content/uploads/2021/12/Accelerating-the-U.S.-Securities-Settlement-Cycle-to-T1-December-1-2021.pdf.*

[17] T+1 Proposing Release, *supra* note 14; *see also* Commission Press Release 2022–21: ''SEC Issues Proposal to Reduce Risks in Clearance and Settlement'' (Feb. 9, 2022).

[18] T+1 Adopting Release, *supra* note 7.

[19] The current deadline for submitting exercise notices other than at expiration is 6:00 p.m. CT. The current deadline for submitting exercise notices at expiration is 8:00 p.m. CT on monthly standard Friday expirations, 7:00 p.m. CT on weekly Friday expirations, and 6:30 p.m. CT on Monday and Wednesday expirations.

[20] Under Rule 801, the deadline for submitting late exercise notices is 6:00 a.m. CT. Under Rule 805, the deadline for submitting late exercise notices is the expiration time of the option, which is currently 10:59 p.m. CT (as set forth in Article 1, Section 1(E)(23) of the By-Laws).

[21] OCC maintains a link with NSCC to facilitate the settlement of physically settled stock options and stock futures. More specifically, OCC and NSCC are parties to a Stock Options and Futures Settlement Agreement that specifies the time at which responsibility for the settlement of such obligations passes from OCC to NSCC (the ''Accord''). *See* Exchange Act Release No. 81266 (July 31, 2017), 82 FR 36484 (Aug. 4, 2017) (File No. SR–OCC–2017–013).

Members may submit exercise notices. Following the proposed changes, OCC would continue to maintain deadlines for receiving exercise notices. The Financial Industry Regulatory Authority (''FINRA'') and the options exchanges have similarly established a cut-off time for receiving exercise notices.[22] Moreover, the late exercise process at OCC is intended to be used in extenuating circumstances and is not routinely performed. The filing of a late exercise notice may be deemed a violation subject to disciplinary action under Rules 801 and 805. Most recently, in 2020, OCC raised the late filing fee from $75,000 to $250,000 per line item to further disincentivize late exercises.[23] For these reasons, OCC would cease accepting late exercise notices and proposes to amend the following provisions in connection with such change.

OCC proposes to revise Rule 801, which addresses the exercise of options other than at expiration. OCC propose to remove language in paragraph (a) that requires a Clearing Member to prepare and preserve a memorandum describing the error that gave rise to a late filing. OCC also proposes to remove paragraph (d) that grants certain individuals the discretion to permit a Clearing Member to file a late exercise notice to correct a bona fide error, subject to certain conditions, including liability for a late filing fee, a final deadline for submission, and potential disciplinary action.[24] OCC accordingly proposes to remove a reference to paragraph (d) in Rule 801, Interpretation and Policy .02.

OCC propose similar changes to Rule 805, which addresses exercises on expiration. OCC proposes to remove the language in paragraph (c) and related language in paragraph (e) that allows Clearing Members to file late exercise notices subject to a final deadline for submission. OCC would replace the text in paragraph (c) with the term ''Reserved.'' OCC proposes to remove paragraphs (g), (h), and (i) that set out various terms and conditions governing the submission of late exercise notices, including liability for a late filing fee and potential disciplinary action for the Clearing Member. OCC would eliminate and update references to the provisions in Rule 805 (including the Interpretation and Policy) and make conforming changes throughout the Rules, including in Rules 1305, 1401, and 2702.

(ii) Timeframes Related to the Standard Settlement Cycle

OCC proposes changes to timeframes in its Rules, By-Laws, and Clearing Member documents that are related to the current T+2 standard settlement cycle. The following provisions would need to be updated to facilitate the move to T+1 and are discussed in more detail below:

- OCC Rule 901 (Settlement Through Correspondent Clearing Corporations); [25]
- OCC Rule 903 (Obligation to Deliver);
- OCC Rule 1302 (Delivery of Underlying Securities);
- OCC Rule 1302B (Delivery of Underlying Treasury Securities);
- OCC Rule 1503 (Exercise Settlement Date for Event Options and Range Options);
- OCC Rule 2201 (Instructions to the Corporation);
- OCC Rule 2208 (Settlement Date);
- Article XXI of OCC's By-Laws (Stock Loan/Hedge Program);
- OCC Rule 2209A (Termination of Market Loans); and
- OCC Rule 2502 (Settlement Date for BOUNDs).

OCC proposes to amend certain of its Rules that govern the settlement of physically-settled options and futures through NSCC. Rule 901 requires that certain obligations be settled through the facilities of NSCC. Consistent with the new standard settlement cycle, OCC proposes to amend paragraph (c) of Rule 901 to remove a parenthetical indicating that ''regular way'' settlement under NSCC's rules and procedures does not occur on T+1. Further, paragraph (d) permits OCC to revoke a specification in any delivery advice that settlement be made through the facilities of NSCC at any time prior to the obligation time. In such event, Rule 901(d) allows specified OCC senior officers to extend or postpone the time for delivery to no more than two business days after the date of such revocation. To be consistent with the T+1 settlement cycle, OCC proposes to change the amount of time that OCC has to extend or postpone the time of delivery to one business day.

OCC proposes related changes to conform language with the T+1 settlement cycle in Rule 901(f) and (g) and in certain associated Clearing Member documents. Rule 901(f) permits a Clearing Member (the ''Appointing Clearing Member'') that is not an NSCC member to appoint another Clearing Member that is an NSCC member (the ''Appointed Clearing Member'') to act on its behalf with respect to the settlement of exercised or matured cleared securities in its accounts through NSCC. OCC maintains a related Clearing Member document (the ''Appointment of Clearing Member Form'' or an ''appointment form'') that permits the Appointed Clearing Member to act on behalf of the Appointing Clearing Member for this purpose. Rule 901(g) permits a Canadian Clearing Member, on behalf of which CDS Clearing and Depository Services Inc. (''CDS'') [26] maintains a subaccount at NSCC, to appoint CDS to act on its behalf with respect to the settlement of exercised or matured cleared securities in its accounts through NSCC. OCC also maintains a related Clearing Member document (the ''Appointment of CDS—Stock Settlement Form'' or an ''appointment form'') that permits CDS to act on behalf of the Canadian Clearing Member for this purpose. Such appointments currently become effective as of the second business day following the day on which OCC receives written notice, or such later date as may be specified. Under the proposed rule change, OCC would replace the ''second'' business day with the ''first'' business day in Rule 901(f) and (g) and in the appointment forms.

Rule 903 governs a Clearing Member's obligation to deliver when either a delivery advice or OCC directs that settlement be made on a broker-to-broker basis. Under Rule 903, the delivery date for physically-settled options is the second business day following the day on which the exercise notice was, or is deemed to have been, properly tendered to OCC, and the

[22] *See e.g.,* FINRA Rule 2360(b)(23)(A)(iii); Nasdaq Options 6B, Section 1(c); NYSE Arca Rule 6.24–O(c).

[23] *See* Exchange Act Release No. 88310 (Mar. 2, 2020), 85 FR 13198 (Mar. 6, 2020) (File No. SR–OCC–2020–001) (noting that the late exercise fee is intended to encourage Clearing Members to be diligent in processing exercise notices and to improve back office procedures).

[24] For the avoidance of doubt, Clearing Members may still correct errors following the proposed changes but must make any corrections prior to daily processing deadlines. OCC discussed the cessation of late exercises following T+1 with the Operations Roundtable, which solicits feedback from interested stakeholders such as Clearing Members. No substantive opposing views were raised in these discussions. See confidential Exhibit 3A to File no. SR–OCC–2024–002 for supporting data and analysis, including materials from Operations Roundtable meetings and information on past instances of late exercises.

[25] Article I, Section 1.C.(32) of OCC's By-Laws defines the term ''correspondent clearing corporation'' to mean National Securities Clearing Corporation (''NSCC'') or any successor thereto which, ''by agreement with [OCC], provides facilities for settlements in respect of exercised option contracts or BOUNDs or in respect of delivery obligations arising from physically-settled stock futures.'' The Accord is the current agreement that governs NSCC settlement of OCC related activity.

[26] CDS is Canada's national securities depository, which, among other things, facilitates the settlement of cross-border transactions with the U.S. and has relationships with NSCC and The Depository Trust Company (''DTC'').

delivery date for physically settled security futures is generally the second business day following the maturity date. OCC proposes to replace references to the ''second'' business day with the ''first'' business day.

In Chapter XIII regarding futures, futures options and commodity options, OCC proposes to revise Rule 1302 concerning the delivery of underlying securities and Rule 1302B concerning the delivery of underlying Treasury securities. With certain exceptions, Rule 1302 currently provides that the delivery date for a physically-settled stock future is the second business day following the maturity date of the applicable series. Rule 1302B(a) currently provides that the delivery date for each physically-settled Treasury future in respect of which a delivery intent has been submitted (or deemed submitted) is the second business day following such submission (or deemed submission). OCC also maintains a related Clearing Member document (the ''Designation of Clearing Member'' or a ''designation form'') that permits, among other things, a Clearing Member to designate another Clearing Member for the purposes of effecting settlement of physically-settled treasury futures through the Fixed Income Clearing Corporation (''FICC'').[27] OCC proposes to replace references to the ''second'' business day in Rules 1302 and 1302B and in the designation form with the ''first'' business day. OCC also proposes corresponding changes to update references from the ''second'' business day to the ''first'' business day with respect to applicable deadlines specified in paragraphs (d), (e), and (j) of Rule 1302B.

OCC proposes similar changes to make language consistent with the T+1 settlement cycle in Rule 1503. With certain exceptions, Rule 1503 currently provides that the exercise settlement date for a credit default option and credit default basket option is the second business day following the date on which the option is deemed to have been exercised. Under the proposed rule change, OCC would replace the ''second'' business day with the ''first'' business day.

OCC also proposes to amend provisions of its Rules and By-Laws concerning its two Stock Loan Programs. OCC operates two programs in which it acts as a central counterparty for stock loan transactions: the Stock Loan/Hedge Program and Market Loan Program.[28] The Stock Loan/Hedge Program allows Clearing Members to use borrowed and loaned securities to reduce OCC margin requirements. The Market Loan Program is a program whereby OCC processes and maintains stock loan positions that have originated through a Loan Market.[29]

In respect of the Stock Loan/Hedge Program, Rule 2201(c) currently permits a Canadian Clearing Member on behalf of which CDS maintains a subaccount at DTC to appoint CDS to act on its behalf with respect to effecting delivery orders for stock loan and stock borrow transactions in its accounts through DTC. OCC also maintains a related Clearing Member document (the ''Appointment of CDS—Stock Loan Form'' or an ''appointment form'') that permits CDS to act on behalf of the Canadian Clearing Member for this purpose. Such appointment currently becomes effective as of the second business day following the day on which OCC receives written notice, or such later date as may be specified. Under the proposed rule change, OCC would replace the ''second'' business day with the ''first'' business day in Rule 2201(c) and in the appointment form.

In addition, with respect to the Stock Loan/Hedge Program, Rule 2208(a) currently provides that the settlement date for the termination of a stock loan will be the earlier of: (1) the date on which the borrowing Clearing Member initiates the termination or (2) the date that is two stock loan business days after the date on which the lending Clearing Member initiates the termination. OCC proposes to amend Rule 2208(a) to change ''two stock loan business days'' to ''one stock loan business day.''

OCC may terminate outstanding stock loans under certain conditions pursuant to Article XXI, Section 2(c) of OCC's By-Laws with respect to the Stock Loan/Hedge Program. If any stock loans are so terminated, OCC is required to provide written notice to the affected Clearing Members specifying the date on which such termination is to become effective, which will be at least two stock loan business days after the date of such notice. OCC proposes to make the effective date consistent with the new T+1 settlement cycle by changing the minimum number of days between notice and termination from two to one.

Regarding the Market Loan Program, a market loan (*i.e.,* a loan of eligible stock effected through a Loan Market) is terminated by the relevant Clearing Member providing a return or recall notice to the Loan Market with respect to a specified quantity of loaned stock under Rule 2209A. Rule 2209A(a)(3) discusses the scenario where a recall transaction fails to settle by the settlement time on the second stock loan business day following the day that the transaction was first submitted. OCC proposes to replace ''second'' stock loan business day with ''first'' stock loan business day. Under Rule 2209A(d), OCC may terminate outstanding market loans under certain conditions. If any market loans are so terminated, OCC is required to provide written notice to the affected Clearing Members specifying the date on which such termination is to become effective, which will be at least two stock loan business days after the date of such notice. OCC proposes to make the effective date consistent with the new T+1 settlement cycle by changing the minimum number of days between notice and termination from two to one.

OCC proposes to amend Rule 2502 concerning the settlement date for BOUNDs. Namely, OCC proposes to update the settlement date for a BOUND contract from the second business day following the expiration date to the first business day.

(iii) Conforming and Clarifying Changes

OCC proposes changes to Chapter VI of its Rules related to deposits in lieu of margin. In lieu of depositing margin, OCC permits a Clearing Member or an approved custodian to deposit eligible collateral in respect of certain option contracts included in a short position in accordance with OCC Rule 610. More specifically, OCC permits certain types of deposits in lieu of margin, including member specific deposits, third-party specific deposits, and escrow deposits, which are further described in Rules 610A, 610B and 610C, respectively.[30]

With certain exceptions, OCC Rule 610C(o) provides that any escrow

[27] FICC provides central counterparty services to firms that participate in the U.S. Government and mortgage-backed securities markets.

[28] Information on the Stock Loan/Hedge Program and Market Loan Program can be found on OCC's public website, *available at https://www.theocc.com/clearance-and-settlement/stock-loan-programs.*

[29] Article I, Section 1.L.(5) of OCC's By-Laws defines ''Loan Market'' as an electronic platform included in OCC's Market Loan Program that supports securities lending and borrowing transactions by matching lenders and borrowers based on loan terms that each party is willing to accept.

[30] Member specific deposits are equity securities deposited by clearing members at DTC at the direction of their customers; third-party specific deposits are equity securities deposited by custodian banks at DTC at the direction of their customers; and escrow deposits can consist of cash deposits held at a custodian bank for the benefit of OCC, in addition to equities, and U.S. Government securities pledged to OCC through DTC by escrow deposit banks at the direction of their customers.

deposit in respect of a short position in stock put options will be released by OCC on its own initiative at a specified time on the fourth business day following the expiration date.[31] OCC proposes to amend this outdated provision to state that such deposits will be released by OCC at a specified time following the expiration date. Reference to the specific business day would be removed from the Rules and, instead, would be centralized in and made available through the Operations Manual, along with other timeframes and deadlines specified by OCC.[32] The Operations Manual would state that this release of collateral would occur on the next business day following the expiration date. Shortening the period for the automatic release of collateral to the next business day following the expiration date would be in line with the changes described above to shorten the current settlement cycle to T+1. OCC believes that such change would align with the goals of the T+1 Adopting Release to reduce central counterparty exposure to credit, market, and liquidity risk arising from its obligations to its participants, as there is no need for OCC to hold the collateral for an extended period of time.[33]

OCC proposes conforming changes throughout Chapter VI. OCC proposes to amend Rule 610B(d)(2) regarding third-party specific deposits [34] and Rule 610C(p) regarding escrow deposits in respect of a short position in index options [35] to uniformly state that such deposits will be released by OCC at a specified time following the expiration date, which would be consistent with the language described above in amended Rule 610C(o). OCC also proposes language in new paragraph (2) of Rule 610A(c) to address the automatic release of any member specific deposits by OCC, which would largely align with the language in amended Rule 610B(d)(2).[36] This addition is intended to be clarifying in nature, as OCC currently releases member specific deposits in the same general manner as set out in Rule 610B(d)(2) for third-party specific deposits. Consistent with the change described above, automatic release would occur on the next business day following the expiration date for member specific, third-party specific and escrow deposits and would be set out in the Operations Manual. These changes are intended to ensure consistent language and practices to promote clarity for market participants. These changes are made in conjunction with the revisions to Rule 610C(o) and align with the goals of the T+1 Adopting Release to reduce central counterparty exposure to credit, market, and liquidity risk arising from its obligations to its participants, as there is no need for OCC to hold the collateral for an extended period of time.[37]

OCC further proposes revisions to Chapter XIV in relation to Treasury securities options. As U.S. Treasury securities commonly settle on a T+1 basis, OCC proposes to update the exercise settlement date for Treasury securities options from the second business day following the expiration date to the first business day in Rule 1402(a). Additionally, Clearing Members are required to notify OCC within a prescribed timeframe if a trade required to be completed pursuant to Rule 1403 has not been successfully matched at FICC.[38] Under Rule 1404, if OCC receives timely notice of a failure to match a trade, the affected Clearing Members are required to attempt to resolve the failure such that settlement could occur through FICC by the specified deadline on the second business day following the expiration date. If the failure is not resolved by such deadline, the Clearing Members are required to notify OCC within a specified time on the second business day following the expiration date. OCC also proposes to update these references from the ''second'' business day to the ''first'' business day in Rule 1404. Similar to the changes described above, these changes would promote consistency between OCC's Rules and the settlement cycle for the relevant asset class.

Implementation Timeframe

As discussed above, OCC would implement the proposed rule change in coordination with the Commission's compliance date for the amendments to Rule 15c6–1(a) and the transition to T+1. OCC would provide notice to Clearing Members of the implementation through an Information Memorandum posted to its public website at least two (2) weeks prior to implementation.

(2) Statutory Basis

For the following reasons, OCC believes that the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act [39] and Rule 17Ad–22(e)(1) [40] thereunder. Section 17A(b)(3)(F) of the Act [41] requires, among other things, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions, to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible, and, in general, to protect investors and the public interest. OCC believes the proposed rule change is consistent with these requirements because it would coordinate the terms of certain provisions in OCC's Rules, By-Laws, and Clearing Member documents with the Commission's amendments to Rule 15c6–1(a) to support a T+1 standard settlement cycle. First, OCC proposes to remove provisions connected to late exercise that are impacted by a shortened settlement cycle. As discussed above, OCC would no longer accommodate late exercise notices due to operational challenges for same-day settlement and limitations under the Accord. In OCC's view, this change does not represent a significant departure from OCC's current practices or the practices of other self-regulatory organizations. OCC would continue to maintain timeframes during which Clearing Members may submit exercise notices following the amendments. The proposed change is intended to preserve the successful and timely completion of exercise and assignment processes,

[31] The exceptions in OCC Rule 610C(o) include that (1) the Clearing Member's obligations in respect of such short position have not been satisfied or (2) the deposit is subject to a ''hold'' instruction (*i.e.,* an instruction requesting that OCC not release such deposit).

[32] *See* Confidential Exhibit 3B to File no. SR–OCC–2024–002 containing the changes to the Operations Manual with material to be added in underlined text and material to be deleted in strikethrough text.

[33] *See* T+1 Adopting Release, *supra* note 7.

[34] Rule 610B(d)(2) provides that any third-party specific deposit will be released by OCC on its own initiative at a specified time on the business day following the exercise settlement date unless (1) the settlement obligations in respect of such short position have not been met, that NSCC has determined to suspend, decline or cease to act for the Clearing Member in respect of whose account such deposit was made, or, that NSCC has determined to prohibit or limit such Clearing Member's access to services; (2) OCC has directed that the exercise be settled otherwise than through NSCC; or (3) the deposit is subject to a ''hold'' instruction.

[35] Rule 610C(p) provides that such escrow deposit will be released by OCC on its own initiative at a specified time on the first business day following the expiration date unless (1) the Clearing Member carrying the short position is not in full compliance with its obligations to OCC or (2) the deposit is subject to a ''hold'' instruction.

[36] The proposed text in Rule 610A(c)(2) would mirror the amended text in Rule 610B(d)(2) with minor changes to remove or replace provisions associated with third-party specific deposits with member specific deposits.

[37] *See* T+1 Adopting Release, *supra* note 7.

[38] Under Rule 1403, OCC requires every Treasury Securities Clearing Member to be a participant in the Government Securities Division (''GSD'') of FICC or designate a GSD participant as its representative to submit trade information into FICC's real-time trade matching system.

[39] 15 U.S.C. 78q–1(b)(3)(F).

[40] 17 CFR 240.17Ad–22(e)(1).

[41] 15 U.S.C. 78q–1(b)(3)(F).

which are important to the prompt and accurate settlement of securities transactions, following the transition to a T+1 settlement cycle.

OCC believes that the proposed changes to amend timeframes related to the standard settlement cycle are also consistent with Section 17A(b)(3)(F) of the Act.[42] Where a current OCC Rule, By-Law, or Clearing Member document is based upon or otherwise references the T+2 standard securities settlement cycle, the provision would be changed to support T+1. Harmonizing OCC's Rules, By-Laws, and Clearing Member documents with the new T+1 standard settlement cycle would remove impediments to and support the prompt and accurate clearance and settlement of securities transactions by, for example, ensuring that provisions in these documents that are related to T+1 are consistent with the rules concerning the standard settlement cycle that are maintained by the exchanges for which OCC clears and settles transactions and the rules of clearing agencies that provide clearance and settlement services for securities transactions that underlie physically-settled stock option and stock future contracts cleared by OCC. OCC believes that conforming its Rules, By-Laws, and Clearing Member documents to the new T+1 standard settlement cycle would also protect investors and the public interest by ensuring that OCC provides clearance and settlement services in a manner that supports the Commission's requirements for the T+1 standard settlement cycle.

Additionally, OCC believes that the proposed conforming and clarifying changes to its Rules are consistent with Section 17A(b)(3)(F) of the Act.[43] Automatic release would consistently occur on the next business day following the expiration date for member specific, third-party specific and escrow deposits and associated language would be set out in the Operations Manual, along with other timeframes and deadlines specified by OCC. As described above, the proposed changes would ensure consistent language and practices by OCC, including with respect to the settlement cycle for the relevant asset class and the automatic release of deposits, thereby promoting clarity and avoiding potential confusion for market participants, which would help support OCC's prompt and accurate clearance and settlement of securities transactions. For these reasons, the proposed changes are reasonably designed to promote the prompt and accurate clearance and settlement of securities transactions, to assure the safeguarding of securities and funds in OCC's custody or control, and, in general, to protect investors and the public interest in accordance with Section 17A(b)(3)(F) of the Act.[44]

OCC believes the proposed changes are also consistent with the requirements in Rule 17Ad–22(e)(1) under the Act.[45] Rule 17Ad–22(e)(1) requires that each covered clearing agency establish, implement, maintain and enforce written policies and procedures reasonably designed to provide for a well-founded, clear, transparent, and enforceable legal basis for each aspect of its activities in all relevant jurisdictions.[46] The changes are designed to modify OCC's Rules, By-Laws, and Clearing Member documents that would otherwise become outdated upon the change to the T+1 standard settlement cycle, or present other operational difficulties or concerns. The proposed changes would allow OCC to maintain provisions and practices that are both clear and consistent with the standard settlement cycle that is specified in Rule 15c6–1(a), which would help ensure that OCC's Rules, By-Laws, and Clearing Member documents remain well-founded, clear, transparent, and enforceable. Additional changes are proposed to OCC's Rules that would amend an outdated provision and ensure consistency with the settlement cycle for the relevant asset class and regarding the automatic release of deposits, which would ensure that OCC's Rules are well-founded, clear, transparent, and enforceable. Therefore, OCC believes that the proposed changes promote compliance and consistency with the requirements in Rule 17Ad–22(e)(1) to establish, implement, maintain and enforce written policies and procedures reasonably designed to provide for a well-founded, clear, transparent and enforceable legal basis.

(B) Clearing Agency's Statement on Burden on Competition

Section 17A(b)(3)(I) of the Act[47] requires that the rules of a clearing agency not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. OCC does not believe that the proposed rule change would impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. As discussed above, OCC proposes amendments to its Rules, By-Laws, and Clearing Member documents to (i) revise provisions connected to late exercise that are impacted by a shortened settlement cycle, (ii) change timeframes related to the standard settlement cycle to reflect T+1, and (iii) make certain other conforming and clarifying changes. OCC does not believe that the proposed rule change would impose any burden or have any impact on competition. The proposed rule change would implement revisions that ensure consistency with amendments recently adopted by the Commission in Rule 15c6–1(a) to change the standard securities settlement cycle to T+1 and additional changes that promote clarity or uniformity amongst OCC's Rules, By-Laws, and Clearing Member documents, as described above. All Clearing Members would be equally subject to the changes, and the proposed changes would not provide any Clearing Member with a competitive advantage over any other Clearing Member. This proposed rule change would also not inhibit access to OCC's services or disadvantage or favor any particular user in relationship to another. As a result, OCC believes the proposed rule change would not impact or impose a burden on competition.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were not and are not intended to be solicited with respect to the proposed rule change, and none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

The proposal shall not take effect until all regulatory actions required with respect to the proposal are completed.

[42] *Id.*

[43] *Id.*

[44] *Id.*

[45] 17 CFR 240.17Ad–22(e)(1).

[46] *Id.*

[47] 15 U.S.C. 78q–1(b)(3)(I).

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–OCC–2024–002 on the subject line.

Paper Comments

- Send paper comments in triplicate to Vanessa Countryman, Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–OCC–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 OCC and on OCC's website at *https://www.theocc.com/Company-Information/Documents-and-Archives/By-Laws-and-Rules.*

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–OCC–2024–002 and should be submitted on or before February 15, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[48]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024–01385 Filed 1–24–24; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99395; File No. SR–CBOE–2024–005]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing of a Proposed Rule Change To Permit Cboe To List and Trade Options on ETPs That Hold Bitcoin

January 19, 2024.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (''Act'') and Rule 19b–4 thereunder,[2] notice is hereby given that on January 5, 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.

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 Rule 4.3. 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 4.3 regarding the criteria for underlying securities. Specifically, the Exchange proposes to amend Rule 4.3, Interpretation and Policy .06(a)(4) to allow the Exchange to list and trade options on Units[3] that represent interests in a trust that holds bitcoin (''Bitcoin ETPs''), designating them as ''Units'' deemed appropriate for options trading on the Exchange. Current Rule 4.3, Interpretation and Policy .06 provides that, subject to certain other criteria set forth in that Rule, securities deemed appropriate for options trading include Units that represent certain types of interests,[4] including interests in

[48] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Rule 1.1 defines a ''Unit'' (which may also be referred to as an exchange-traded fund (''ETF'')) as a share or other security traded on a national securities exchange and defined as an NMS stock as set forth in Rule 4.3.

[4] *See* Rule 4.3, Interpretation and Policy .06(a), which permits options trading on Units that represent (1) interests in registered investment companies (or series thereof) organized as open-end management investment companies, unit investment trusts or similar entities that hold portfolios of securities and/or financial instruments including, but not limited to, stock index futures contracts, options on futures, options on securities and indexes, equity caps, collars and floors, swap agreements, forward contracts, repurchase agreements and reverse purchase agreements (the ''Financial Instruments''), and money market instruments, including, but no limited to, U.S. government securities and repurchase agreements (the ''Money Market Instruments'') comprising or otherwise based on or representing investments in indexes or portfolios of securities and/or Financial Instruments and Money Market Instruments (or that hold securities in one or more other registered investment companies that themselves hold such portfolios of securities and/or Financial Instruments and Money Market Instruments); (2) interests in a trust or similar entity that holds a specified non-U.S. currency deposited with the trust or similar entity when aggregated in some specified minimum number may be surrendered to the trust by the beneficial owner to receive the specified non-U.S. currency and pays the beneficial owner interest and other distributions on deposited non-U.S. currency, if any, declared and paid by the trust (''Currency Trust Shares''); (3) commodity pool interests principally engaged, directly or indirectly, in holding and/or managing portfolios or baskets of securities, commodity futures contracts, options on commodity futures contracts, swaps, forward contracts and/or options on physical commodities and/or non-U.S. currency (''Commodity Pool Units''); (4) interests in the SPDR Gold Trust, the iShares COMEX Gold Trust, the iShares Silver Trust, the Aberdeen Standard Physical Silver Trust, the Aberdeen Standard Physical Gold Trust, the Aberdeen Standard Physical Palladium Trust, the Aberdeen Standard Physical Platinum Trust, the Sprott Physical Gold Trust or the Goldman Sachs Physical Gold ETF; or (5) an interest in a registered

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certain specific trusts that hold financial instruments, money market instruments, or precious metals (which are deemed commodities).

Bitcoin ETPs are bitcoin-backed commodity ETPs structured as trusts.[5] Similar to any Unit currently deemed appropriate for options trading under Rule 4.3, Interpretation and Policy .06, the investment objective of a Bitcoin ETP trust is for its shares to reflect the performance of bitcoin (less the expenses of the trust's operations), offering investors an opportunity to gain exposure to bitcoin without the complexities of bitcoin delivery. As is the case for Units currently deemed appropriate for options trading, a Bitcoin ETP's shares represent units of fractional undivided beneficial interest in the trust, the assets of which consist principally of bitcoin and are designed to track bitcoin or the performance of the price of bitcoin and offer access to the bitcoin market.[6] Bitcoin ETPs provide investors with cost-efficient alternatives that allow a level of participation in the bitcoin market through the securities market. The primary substantive difference between Bitcoin ETPs and Units currently deemed appropriate for options trading are that Units may hold securities, certain financial instruments, and specified precious metals (which are commodities), while Bitcoin ETPs hold bitcoin (which is also deemed a commodity).

The Exchange's initial listing standards for ETFs on which options may be listed and traded on the Exchange will apply to the Bitcoin ETPs. The Exchange expects Bitcoin ETPs to satisfy the initial listing standards as set forth in Rule 4.3(a) and Rule 4.3, Interpretation and Policy .06(b). Pursuant to Rule 4.3(a), a security (which includes a Unit) on which options may be listed and traded on the Exchange must be duly registered (with the Commission) and be an NMS stock (as defined in Rule 600 of Regulation NMS under the Securities Exchange Act of 1934, as amended (the ''Act'')), and be characterized by a substantial number of outstanding shares that are widely held and actively traded.[7] Rule 4.3, Interpretation and Policy .06 requires that Units must either (1) meet the criteria and standards set forth in Rule 4.3, Interpretation and Policy .01(a),[8] or (2) be available for creation or redemption each business day from or through the issuer in cash or in kind at a price related to net asset value, and the issuer must be obligated to issue Units in a specified aggregate number even if some or all of the investment assets required to be deposited have not been received by the issuer, subject to the condition that the person obligated to deposit the investments has undertaken to deliver the investment assets as soon as possible and such undertaking is secured by the delivery and maintenance of collateral consisting of cash or cash equivalents satisfactory to the issuer, as provided in the respective prospectus. The Exchange expects that Bitcoin ETPs would satisfy Rule 4.3, Interpretation and Policy .06(b)(2).[9]

Options on Bitcoin ETPs will also be subject to the Exchange's continued listing standards set forth in Rule 4.4, Interpretation and Policy .06 for Units deemed appropriate for options trading pursuant to Rule 4.3, Interpretation and Policy .06. Specifically, Rule 4.4, Interpretation and Policy .06 provides that Units that were initially approved for options trading pursuant to Rule 4.3, Interpretation and Policy .06 shall be deemed not to meet the requirements for continued approval, and the Exchange shall not open for trading any additional series of option contracts of the class covering that [sic] such Units, if the Units cease to be an NMS stock or the Units are halted from trading in their primary market. Additionally, options on Units may be subject to the suspension of opening transactions in any of the following circumstances: (1) in the case of options covering Units approved for trading under Rule 4.3, Interpretation and Policy .06(b)(1), in accordance with the terms of paragraphs (a), (b), and (c) of Rule 4.4, Interpretation and Policy .01; (2) in the case of options covering Units approved for trading under Rule 4.3 Interpretation and Policy .06(b)(2), following the initial twelve-month period beginning upon the commencement of trading in the Units on a national securities exchange and are defined as an NMS stock [sic], there are fewer than 50 record and/or beneficial holders of such Units for 30 or more consecutive trading days; (3) the value of the index or portfolio of securities, non-U.S. currency, or portfolio of commodities including commodity futures contracts, options on commodity futures contracts, swaps, forward contracts and/or options on physical commodities and/or financial instruments and money market instruments on which the Units are based is no longer calculated or available; or (4) such other event shall occur or condition exist that in the opinion of the Exchange makes further dealing in such options on the Exchange inadvisable.

Options on a Bitcoin ETP will be physically settled contracts with American-style exercise.[10] Consistent with current Rule 4.5, which governs the opening of options series on a specific underlying security (including Units), the Exchange will open at least one expiration month for options on each Bitcoin ETP [11] at the

investment company (''Investment Company'') organized as an open-end management investment company or similar entity, that invests in a portfolio of securities selected by the Investment Company's investment adviser consistent with the Investment Company's investment objectives and policies, which is issued in a specified aggregate minimum number in return for a deposit of a specified portfolio of securities and/or a cash amount with a value equal to the next determined net asset value (''NAV''), and when aggregated in the same specified minimum number, may be redeemed at a holder's request, which holder will be paid a specified portfolio of securities and/or cash with a value equal to the next determined NAV (''Managed Fund Share'').

[5] The Exchange notes several filings to list and trade Units that hold bitcoin as NMS stocks (and registration statements for those Units) are currently pending with the Securities and Exchange Commission (the ''Commission''). Pursuant to the Rules, the Exchange would only have authority to list and trade Units that are trading as NMS stocks.

[6] The trust may include minimal cash.

[7] As noted above, there are currently no Bitcoin ETPs trading as NMS stocks on a national securities exchange; however, registration statements and filings to list and trade several Bitcoin ETPs are currently pending with the Commission. The Exchange represents it would not list options on a Bitcoin ETP unless it satisfied the criteria in Rule 4.3(a) the proposed listing criteria, and any other applicable listing criteria.

[8] Rule 4.3, Interpretation and Policy .01 provides for guidelines to be by the Exchange when evaluating potential underlying securities for Exchange option transactions.

[9] *See, e.g.,* Form S–1 Registration Statement filed on November 29, 2023 (Registration No. 333–275781) (pending registration statement for shares of the Pando Asset Spot Bitcoin Trust); and Form S–1 Registration Statement filed on September 12, 2023 (Registration No. 333–274474) (pending registration statement for shares of the Franklin Bitcoin ETF).

[10] *See* Rule 4.2, which provides that the rights and obligations of holders and writers are set forth in the Rules of the Options Clearing Corporation (''OCC''); *and* Equity Options Product Specifications January 3, 2024), available at Equity Options Specifications (*cboe.com*); *see also* OCC Rules, Chapters VIII (which governs exercise and assignment) and Chapter IX (which governs the discharge of delivery and payment obligations arising out of the exercise of physically settled stock option contracts).

[11] *See* Rule 4.5(b). The monthly expirations are subject to certain listing criteria for underlying securities described within Rule 4.3. Monthly listings expire the third Friday of the month. The term ''expiration date'' (unless separately defined elsewhere in the OCC By-Laws), when used in respect of an option contract (subject to certain exceptions), means the third Friday of the expiration month of such option contract, or if such Friday is a day on which the exchange on which such option is listed is not open for business, the preceding day on which such exchange is open for business. *See* OCC By-Laws Article I, Section 1. Pursuant to Rule 4.5(c), additional series of options of the same class may be opened for trading on the Exchange when the Exchange deems it necessary to maintain an orderly market, to meet customer

commencement of trading on the Exchange and may also list series of options on a Bitcoin ETP for trading on a weekly,[12] monthly,[13] or quarterly [14] basis. The Exchange may also list long-term equity option series (''LEAPS'') that expire from 12 to 180 months from the time they are listed.[15]

Pursuant to Rule 4.5, Interpretation and Policy .07, which governs strike prices of series of options on Units, the interval of strikes prices for series of options Bitcoin ETPs will be $1 or greater when the strike price is $200 or less and $5 or greater where the strike price is over $200.[16] Additionally, the Exchange may list series of options pursuant to the $1 Strike Price Interval Program,[17] the $0.50 Strike Program,[18] the $2.50 Strike Price Program,[19] and the $5 Strike Program.[20] Pursuant to Rule 5.4, where the price of a series of a Bitcoin ETP option is less than $3.00, the minimum increment will be $0.05, and where the price is $3.00 or higher, the minimum increment will be $0.10.[21] Any and all new series of Bitcoin ETP options that the Exchange lists will be consistent and comply with the expirations, strike prices, and minimum increments set forth in Rules 4.5 and 5.4, as applicable.

Bitcoin ETP options will trade in the same manner as any other Unit options on the Exchange. The Exchange Rules that currently apply to the listing and trading of all Unit options on the Exchange, including, for example, Rules that govern listing criteria, expiration and exercise prices, minimum increments, position and exercise limits, margin requirements, customer accounts and trading halt procedures will apply to the listing and trading of Bitcoin ETPs on the Exchange in the same manner as they apply to other options on all other Units that are listed and traded on the Exchange, including the precious-metal backed commodity Units already deemed appropriate for options trading on the Exchange pursuant to current Rule 4.3, Interpretation and Policy .06(a)(4).

Position and exercise limits for options on Units, including options on Bitcoin ETPs, are determined pursuant to Rules 8.30 and 8.42, respectively. Position and exercise limits for Unit options vary according to the number of outstanding shares and the trading volumes of the underlying Unit over the past six months, where the largest in capitalization and the most frequently traded Units have an option position and exercise limit of 250,000 contracts (with adjustments for splits, re-capitalizations, etc.) on the same side of the market; and smaller capitalization Units have position and exercise limits of 200,000, 75,000, 50,000 or 25,000 contracts (with adjustments for splits, re-capitalizations, etc.) on the same side of the market.[22] The Exchange further notes that Rule 10.3, which governs margin requirements applicable to the trading of all options on the Exchange, including options on Units, will also apply to the trading of Bitcoin ETP options.

The Exchange represents that the same surveillance procedures applicable to all other options on Units currently listed and traded on the Exchange will apply to options on Bitcoin ETPs, and that it has the necessary systems capacity to support the new option series. The Exchange believes that its existing surveillance and reporting safeguards are designed to deter and detect possible manipulative behavior which might potentially arise from listing and trading Unit options, including precious metal-commodity backed Unit options, as proposed [sic]. Also, the Exchange may obtain information from CME Group Inc.'s designated contract markets that are members of the Intermarket Surveillance Group related to any financial instrument that is based, in whole or in part, upon an interest in or performance of bitcoin, as applicable.

The Exchange has also analyzed its capacity and represents that it believes the Exchange and OPRA have the necessary systems capacity to handle the additional traffic associated with the listing of new series that may result from the introduction of options on Bitcoin ETPs up to the number of expirations currently permissible under the Rules. Because the proposal is limited to Units on a single commodity, the Exchange believes any additional traffic that may be generated from the introduction of Bitcoin ETP options will be manageable.

The Exchange believes that offering options on Bitcoin ETPs will benefit investors by providing them with an additional, relatively lower cost investing tool to gain exposure to the price of bitcoin and hedging [sic] vehicle to meet their investment needs in connection with bitcoin-related products and positions. The Exchange expects investors will transact in options on Bitcoin ETPs in the unregulated over-the-counter (''OTC'') options market (if the Commission approves Bitcoin ETPs for exchange-trading),[23] but may prefer to trade such options in a listed environment to receive the benefits of trading listing options, including (1) enhanced efficiency in initiating and closing out position; (2) increased market transparency; and (3) heightened contra-party creditworthiness due to the role of OCC as issuer and guarantor of all listed options. The Exchange believes that listing Bitcoin ETP options may cause investors to bring this liquidity to the Exchange, would increase market transparency and enhance the process of price discovery conducted on the Exchange through increased order flow. The Units that hold financial instruments, money market instruments, or precious metal commodities on which the Exchange may already list and trade options are trusts structured in substantially the same manner as Bitcoin ETPs and essentially offer the same objectives and benefits to investors, just with respect to different assets. The Exchange notes that it has not identified any issues with the continued listing and trading of any Unit options, including Units that hold commodities (*i.e.,* precious metals) that it currently lists and trades on the Exchange.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of

demand or when the market price of the underlying stock moves more than five strike prices from the initial exercise price or prices. New series of options on an individual stock may be added until the beginning of the month in which the options contract will expire. Due to unusual market conditions, the Exchange, in its discretion, may add a new series of options on an individual stock until the close of trading on the business day prior to expiration.

[12] *See* Rule 4.5(d).

[13] *See* Rule 4.5(g).

[14] *See* Rule 4.5(e).

[15] *See* Rule 4.5(f).

[16] The Exchange notes that for options listed pursuant to the Short Term Option Series Program, the Monthly Options Series Program, and the Quarterly Options Series Program, Rules 4.5(d), (e), and (g) specifically sets forth intervals between strike prices on Quarterly Options Series, Short Term Option Series, and Monthly Options Series, respectively.

[17] *See* Rule 4.5, Interpretation and Policy .01(a).

[18] *See* Rule 4.5, Interpretation and Policy .01(b).

[19] *See* Rule 4.5, Interpretation and Policy .04.

[20] *See* Rule 4.5, Interpretation and Policy .01(f).

[21] If options on a Bitcoin ETP are eligible to participate in the Penny Interval Program, the minimum increment will be $0.01 for series with a price below $3.00 and $0.05 for series with a price at or above $3.00. *See* 5.4(d) (which describes the requirements for the Penny Interval Program).

[22] As Bitcoin ETPs do not currently trade, options on Bitcoin ETPs would be subject to the 25,000 option contract limit.

[23] The Exchange understands from customers that investors have historically transacted in options on Units in the OTC options market if such options were not available for trading in a listed environment.

Section 6(b) of the Act.[24] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[25] 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)[26] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes that the proposal to list and trade options on Bitcoin ETPs will remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, protect investors because offering options on Bitcoin ETPs will provide investors with an opportunity to realize the benefits of utilizing options on a bitcoin-based ETP, including cost efficiencies and increased hedging strategies. The Exchange believes that offering Bitcoin ETP options will benefit investors by providing them with a relatively lower-cost risk management tool, which will allow them to manage their positions and associated risk in their portfolios more easily in connection with exposure to the price of bitcoin and with bitcoin-related products and positions. Additionally, the Exchange's offering of Bitcoin ETP options will provide investors with the ability to transact in such options in a listed market environment as opposed to in the unregulated OTC options market, which would increase market transparency and enhance the process of price discovery conducted on the Exchange through increased order flow to the benefit of all investors. The Exchange also notes that it already lists options on other commodity-based Units,[27] which, as described above, are trusts structured in substantially the same manner as Bitcoin ETPs and essentially offer the same objectives and benefits to investors, just with respect to a different commodity (*i.e.,* bitcoin rather than precious metals) and for which the Exchange has not identified any issues with the continued listing and trading of commodity-backed Unit options it currently lists for trading.

The Exchange also believes the proposed rule change will remove impediments to and perfect the mechanism of a free and open market and a national market system, because it is consistent with current Exchange Rules, previously filed with the Commission. Options on Bitcoin ETPs must satisfy the initial listing standards and continued listing standards currently in the Exchange Rules, applicable to options on all Units, including Units that hold other commodities already deemed appropriate for options trading on the Exchange. Bitcoin ETP options will trade in the same manner as any other Unit options—the same Exchange Rules that currently govern the listing and trading of all Unit options, including permissible expirations, strike prices and minimum increments, and applicable position and exercise limits and margin requirements, will govern the listing and trading of options on Bitcoin ETPs in the same manner.

The Exchange represents that it has the necessary systems capacity to support the new Unit option series. The Exchange believes that its existing surveillance and reporting safeguards are designed to deter and detect possible manipulative behavior which might arise from listing and trading Unit options, including Bitcoin ETP options.

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 does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act as Bitcoin ETPs would need to satisfy the initial listing standards set forth in the Exchange Rules in the same manner as any other Unit before the Exchange could list options on them. Additionally, Bitcoin ETP options will be equally available to all market participants who wish to trade such options. The Exchange Rules currently applicable to the listing and trading of options on Units on the Exchange will apply in the same manner to the listing and trading of all options on Bitcoin ETPs. Also, and as stated above, the Exchange already lists options on other commodity-based Units.[28]

The Exchange does not believe that the proposal to list and trade options on Bitcoin ETPs will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. To the extent that the advent of Bitcoin ETP options trading on the Exchange may make the Exchange a more attractive marketplace to market participants at other exchanges, such market participants are free to elect to become market participants on the Exchange. Additionally, other options exchanges are free to amend their listing rules, as applicable, to permit them to list and trade options on Bitcoin ETPs. Additionally, the Exchange notes that listing and trading Bitcoin ETP options on the Exchange will subject such options to transparent exchange-based rules as well as price discovery and liquidity, as opposed to alternatively trading such options in the OTC market. The Exchange believes that the proposed rule change may relieve any burden on, or otherwise promote, competition as it is designed to increase competition for order flow on the Exchange in a manner that is beneficial to investors by providing them with a lower-cost option to hedge their investment portfolios. The Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues that offer similar products. Ultimately, the Exchange believes that offering Bitcoin ETP options for trading on the Exchange will promote competition by providing investors with an additional, relatively low-cost means to hedge their portfolios and meet their investment needs in connection with bitcoin prices and bitcoin-related products and positions on a listed options exchange.

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 written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period

[24] 15 U.S.C. 78f(b).

[25] 15 U.S.C. 78f(b)(5).

[26] *Id.*

[27] *See* Rule 4.3, Interpretation and Policy .06(a)(4).

[28] *See* Rule 4.3, Interpretation and Policy .06(a)(4).

to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

A. by order approve or disapprove such proposed rule change, or

B. institute proceedings to determine whether the proposed rule change should be 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–2024–005 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–2024–005. 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–2024–005 and should be submitted on or before February 15, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[29]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024–01388 Filed 1–24–24; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99397; File No. SR–MIAX–2024–03]

Self-Regulatory Organizations; Miami International Securities Exchange LLC; Notice of Filing of a Proposed Rule Change To Amend Exchange Rule 402, Criteria for Underlying Securities

January 19, 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 January 12, 2024, Miami International Securities Exchange LLC (''MIAX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I and II 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 Exchange Rule 402, Criteria for Underlying Securities.

The text of the proposed rule change is available on the Exchange's website at *https://www.miaxglobal.com/markets/us-options/miax-options/rule-filings* at MIAX'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.

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 Exchange Rule 402, Criteria for Underlying Securities,[3] to allow the Exchange to list and trade options on Exchange-Traded Fund Shares (''ETFs'') that represent interests in a trust that holds bitcoin (''Bitcoin ETPs''), designating them as ETFs deemed appropriate for options trading on the Exchange.[4]

Current Exchange Rule 402(i)(4) provides that, subject to certain other criteria set forth in that Rule, securities deemed appropriate for options trading include ETFs that represent certain types of interests,[5] including interests in

[29] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Exchange notes that its affiliate exchange, MIAX Pearl, has submitted a substantively identical proposal.

[4] The Exchange notes that all the rules of Chapter IV of the MIAX Options Exchange, including Rule 402, are incorporated by reference to MIAX Emerald.

[5] *See* Exchange Rule 402(i), which permits options trading on ETFS that: (1) represent interests in registered investment companies (or series thereof) organized as open-end management investment companies, unit investment trusts or similar entities that hold portfolios of securities and/or financial instruments (''Funds''), including, but not limited to, stock index futures contracts, options on futures, options on securities and indices, equity caps, collars and floors, swap agreements, forward contracts, repurchase agreements and reverse repurchase agreements (the ''Financial Instruments''), and money market instruments, including, but not limited to, U.S. government securities and repurchase agreements (the ''Money Market Instruments'') comprising or otherwise based on or representing investments in broad-based indexes or portfolios of securities and/or Financial Instruments and Money Market Instruments (or that hold securities in one or more other registered investment companies that themselves hold such portfolios of securities and/or Financial Instruments and Money Market Instruments); (2) represent interests in a trust or similar entity that holds a specified non-U.S. currency or currencies deposited with the trust which when aggregated in some specified minimum number may be surrendered to the trust or similar entity by the beneficial owner to receive the specified non-U.S. currency or currencies and pays the beneficial owner interest and other distributions on the deposited non-U.S. currency or currencies, if any, declared and paid by the trust (''Currency Trust Shares''); (3) represent commodity pool interests principally engaged, directly or indirectly, in holding and/or managing portfolios or baskets of securities, commodity futures contracts, options on commodity futures contracts, swaps, forward contracts and/or options on physical commodities and/or non-U.S. currency (''Commodity Pool ETFs''); (4) are issued by the SPDR® Gold Trust or the iShares COMEX Gold Trust or the iShares Silver

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certain specific trusts that hold financial instruments, money market instruments, or precious metals (which are deemed commodities).

Bitcoin ETPs are bitcoin-backed commodity ETPs structured as trusts.[6] Similar to any ETFs currently deemed appropriate for options trading under Exchange Rule 402, the investment objective of a Bitcoin ETP trust is for its shares to reflect the performance of bitcoin (less the expenses of the trust's operations), offering investors an opportunity to gain exposure to bitcoin without the complexities of bitcoin delivery. As is the case for ETFs currently deemed appropriate for options trading, a Bitcoin ETP's shares represent units of fractional undivided beneficial interest in the trust, the assets of which consist principally of bitcoin and are designed to track bitcoin or the performance of the price of bitcoin and offer access to the bitcoin market.[7] Bitcoin ETPs provide investors with cost efficient alternatives that allow a level of participation in the bitcoin market through the securities market. The primary substantive difference between Bitcoin ETPs and ETFs currently deemed appropriate for options trading are that ETFs may hold securities, certain financial instruments, and specified precious metals (which are commodities), while Bitcoin ETPs hold bitcoin (which is also deemed a commodity).

The Exchange's initial listing standards for ETFs on which options may be listed and traded on the Exchange will apply to the Bitcoin ETPs. The Exchange expects Bitcoin ETPs to satisfy the initial listing standards as set forth in Exchange Rule 402(a) and Exchange Rule 402(i). Pursuant to Exchange Rule 402(a), a security (which includes ETFs) on which options may be listed and traded on the Exchange must be duly registered (with the Commission) and be an NMS stock (as defined in Rule 600 of Regulation NMS under the Act,) and be characterized by a substantial number of outstanding shares that are widely held and actively traded.[8] Exchange Rule 402(i) requires that ETFs must either (1) meet the criteria and standards set forth in Exchange Rule 402(a) or Exchange Rule 402(b), or (2) be available for creation or redemption each business day from or through the issuer in cash or in kind at a price related to net asset value, and the issuer must be obligated to issue ETFs in a specified aggregate number even if some or all of the investment assets required to be deposited have not been received by the issuer, subject to the condition that the person obligated to deposit the investments has undertaken to deliver the investment assets as soon as possible and such undertaking is secured by the delivery and maintenance of collateral consisting of cash or cash equivalents satisfactory to the issuer, as provided in the respective prospectus. The Exchange expects that Bitcoin ETPs would satisfy Exchange Rule 402(i)(5)(i)(B).[9]

Options on Bitcoin ETPs will also be subject to the Exchange's continued listing standards set forth in Exchange Rule 403(g), for ETFs deemed appropriate for options trading pursuant to Exchange Rule 402(i). Specifically, Exchange Rule 403(g) provides that ETFs that were initially approved for options trading pursuant to Exchange Rule 402(i) shall be deemed not to meet the requirements for continued approval, and the Exchange shall not open for trading any additional series of option contracts of the class covering that such ETFs, if the ETFs are delisted from trading pursuant to Exchange Rule 403(b)(4), are halted or suspended from trading in their primary market. Additionally, options on ETFs may be subject to the suspension of opening transactions in any of the following circumstances: (1) in the case of options covering ETFs approved for trading under Exchange Rule 402(i)(5)(i)(A), in accordance with the terms of paragraphs (b)(1), (2), and (3) of Exchange Rule 403; (2) in the case of options covering ETFs approved for trading under Exchange Rule 402(i)(5)(i)(B), following the initial twelve-month period beginning upon the commencement of trading in the ETFs on a national securities exchange and are defined as an NMS stock [sic], there are fewer than 50 record and/or beneficial holders of such ETFs for 30 or more consecutive trading days; (3) the value of the index or portfolio of securities, non-U.S. currency, or portfolio of commodities including commodity futures contracts, options on commodity futures contracts, swaps, forward contracts and/or options on physical commodities and/or financial instruments and money market instruments on which the Units are based is no longer calculated or available; or (4) such other event shall occur or condition exist that in the opinion of the Exchange makes further dealing in such options on the Exchange inadvisable.

Options on a Bitcoin ETP will be physically settled contracts with American-style exercise.[10] Consistent with current Exchange Rule 404, which governs the opening of options series on a specific underlying security (including ETFs), the Exchange will open at least one expiration month for options on each Bitcoin ETP [11] at the

Trust or the ETFS Silver Trust or the ETFS Gold Trust or the ETFS Palladium Trust or the ETFS Platinum Trust or the Sprott Physical Gold Trust; or (5) represent an interest in a registered investment company (''Investment Company'') organized as an open-end management company or similar entity, that invests in a portfolio of securities selected by the Investment Company's investment adviser consistent with the Investment Company's investment objectives and policies, which is issued in a specified aggregate minimum number in return for a deposit of a specified portfolio of securities and/or a cash amount with a value equal to the next determined net asset value (''NAV''), and when aggregated in the same specified minimum number, may be redeemed at a holder's request, which holder will be paid a specified portfolio of securities and/or cash with a value equal to the next determined NAV (''Managed Fund Share''); provided that all of the conditions listed in (5)(i) and 5(ii) are met.

[6] The Exchange notes several filings to list and trade ETFs that hold bitcoin as NMS stocks (and registration statements for those Units) are currently pending with the Securities and Exchange Commission (the ''Commission''). Pursuant to the Exchange's Rules, the Exchange would only have authority to list and trade ETFs that are trading as NMS stocks.

[7] The trust may include minimal cash.

[8] As noted above, there are currently no Bitcoin ETPs trading as NMS stocks on a national securities exchange; however, registration statements and rule filings to list and trade several Bitcoin ETPs are currently pending with the Commission. *See* Securities Exchange Act Release No. 99306 (January 10, 2024) (citing all the proposed rule changes to list and trade Bitcoin ETPs on U.S. securities exchanges). The Exchange represents it would not list options on a Bitcoin ETP unless it satisfied the criteria in Exchange Rule 402(a) the proposed listing criteria, and any other applicable listing criteria.

[9] *See, e.g.,* Form S–1 Registration Statement filed on November 29, 2023 (Registration No. 333–275781) (pending registration statement for shares of the Pando Asset Spot Bitcoin Trust); and Form S–1 Registration Statement filed on September 12, 2023 (Registration No. 333–274474) (pending registration statement for shares of the Franklin Bitcoin ETF).

[10] *See* Exchange Rule 401, which provides that the rights and obligations of holders and writers are set forth in the Rules of the Options Clearing Corporation (''OCC''); *see also* OCC Rules, Chapters VIII (which governs exercise and assignment) and Chapter IX (which governs the discharge of delivery and payment obligations arising out of the exercise of physically settled stock option contracts).

[11] *See* Exchange Rule 404(b). The monthly expirations are subject to certain listing criteria for underlying securities described within Exchange Rule 404 and its Interpretations and Policies. Monthly listings expire the third Friday of the month. The term ''expiration date'' (unless separately defined elsewhere in the OCC By-Laws), when used in respect of an option contract (subject to certain exceptions), means the third Friday of the expiration month of such option contract, or if such Friday is a day on which the exchange on which such option is listed is not open for business, the preceding day on which such exchange is open for business. *See* OCC By-Laws Article I, Section 1. Pursuant to Exchange Rule 404(c), additional series of options of the same class may be opened for trading on the Exchange when the Exchange deems it necessary to maintain an orderly market, to meet customer demand or when the market price of the underlying stock moves more than five strike prices

commencement of trading on the Exchange and may also list series of options on a Bitcoin ETP for trading on a weekly,[12] monthly,[13] or quarterly [14] basis. The Exchange may also list long-term equity option series (''LEAPS'') that expire from 12 to 180 months from the time they are listed.[15]

Pursuant to Exchange Rule 404, Interpretation and Policy .06, which governs strike prices of series of options on Trust Issued Receipts, the interval of strikes prices for series of options Bitcoin ETPs will be $1 or greater when the strike price is $200 or less and $5 or greater where the strike price is over $200.[16] Additionally, the Exchange may list series of options pursuant to the $1 Strike Price Interval Program,[17] the $0.50 Strike Program,[18] and the $2.50 Strike Price Program.[19] Pursuant to Exchange Rule 510, where the price of a series of a Bitcoin ETP option is less than $3.00, the minimum increment will be $0.05, and where the price is $3.00 or higher, the minimum increment will be $0.10.[20] Any and all new series of Bitcoin ETP options that the Exchange lists will be consistent and comply with the expirations, strike prices, and minimum increments set forth in Rules 404 and 510, as applicable.

Bitcoin ETP options will trade in the same manner as any other ETF options on the Exchange. The Exchange Rules that currently apply to the listing and trading of all ETFs options on the Exchange, including, for example, Exchange Rules that govern listing criteria, expiration and exercise prices, minimum increments, position and exercise limits, margin requirements, customer accounts and trading halt procedures will apply to the listing and trading of Bitcoin ETPs on the Exchange in the same manner as they apply to other options on all other ETFs that are listed and traded on the Exchange, including the precious-metal backed commodity ETFs already deemed appropriate for options trading on the Exchange pursuant to current Exchange Rule 402(i)(4).

Position and exercise limits for options on ETFs, including options on Bitcoin ETPs, are determined pursuant to Exchange Rules 307 and 309, respectively. Position and exercise limits for ETFs options vary according to the number of outstanding shares and the trading volumes of the Underlying Security [21] over the past six months, where the largest in capitalization and the most frequently traded ETFs have an option position and exercise limit of 250,000 contracts (with adjustments for splits, re-capitalizations, etc.) on the same side of the market; and smaller capitalization Units have position and exercise limits of 200,000, 75,000, 50,000 or 25,000 contracts (with adjustments for splits, re-capitalizations, etc.) on the same side of the market.[22] The Exchange further notes that Exchange Rule 1502, which governs margin requirements applicable to trading on the Exchange, will also apply to the trading of Bitcoin ETP options.

The Exchange represents that the same surveillance procedures applicable to all other options on ETFs currently listed and traded on the Exchange will apply to options on Bitcoin ETPs, and that it has the necessary systems capacity to support the new option series. The Exchange believes that its existing surveillance and reporting safeguards are designed to deter and detect possible manipulative behavior which might potentially arise from listing and trading ETFs options, including precious metal-commodity backed ETFs options, as proposed. Also, the Exchange may obtain information from CME Group Inc.'s designated contract markets that are members of the Intermarket Surveillance Group related to any financial instrument that is based, in whole or in part, upon an interest in or performance of bitcoin, as applicable.

The Exchange has also analyzed its capacity and represents that it believes the Exchange and OPRA have the necessary systems capacity to handle the additional traffic associated with the listing of new series that may result from the introduction of options on Bitcoin ETPs up to the number of expirations currently permissible under the Rules. Because the proposal is limited to ETFs on a single commodity, the Exchange believes any additional traffic that may be generated from the introduction of Bitcoin ETP options will be manageable.

The Exchange believes that offering options on Bitcoin ETPs will benefit investors by providing them with an additional, relatively lower cost investing tool to gain exposure to the price of bitcoin and [sic] hedging vehicle to meet their investment needs in connection with bitcoin-related products and positions. The Exchange expects investors will transact in options on Bitcoin ETPs in the unregulated over-the-counter (''OTC'') options market (if the Commission approves Bitcoin ETPs for exchange-trading),[23] but may prefer to trade such options in a listed environment to receive the benefits of trading listing options, including (1) enhanced efficiency in initiating and closing out position; (2) increased market transparency; and (3) heightened contra-party creditworthiness due to the role of OCC as issuer and guarantor of all listed options. The Exchange believes that listing Bitcoin ETP options may cause investors to bring this liquidity to the Exchange, would increase market transparency and enhance the process of price discovery conducted on the Exchange through increased order flow. The ETFs that hold financial instruments, money market instruments, or precious metal commodities on which the Exchange may already list and trade options are trusts structured in substantially the same manner as Bitcoin ETPs and essentially offer the same objectives and benefits to investors, just with respect to different assets. The Exchange notes that it has not identified any issues with the continued listing and trading of any ETFs options, including ETFs that hold commodities (*i.e.,* precious metals) that it currently lists and trades on the Exchange.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of

from the initial exercise price or prices. Pursuant to Exchange Rule 404(e), new series of options on an individual stock may be added until the beginning of the month in which the options contract will expire. Due to unusual market conditions, the Exchange, in its discretion, may add a new series of options on an individual stock until the close of trading on the business day prior to expiration.

[12] *See* Exchange Rule 404, Interpretations and Policies .02.

[13] *See* Exchange Rule 404, Interpretations and Policies .13.

[14] *See* Exchange Rule 404, Interpretations and Policies .03.

[15] *See* Exchange Rule 404(d).

[16] *See* Exchange Rule 404, Interpretation and Policy .06.

[17] *See* Exchange Rule 404, Interpretation and Policy .01.

[18] *See* Exchange Rule 404, Interpretation and Policy .04.

[19] *See* Exchange Rule 404(f).

[20] *See* Exchange Rule 510.

[21] The term ''underlying security'' in respect of an option contract means the security which the Clearing Corporation shall be obligated to sell (in the case of a call option contract) or purchase (in the case of a put option contract) upon the valid exercise of the option contract. *See* Exchange Rule 100.

[22] As Bitcoin ETPs do not currently trade, options on Bitcoin ETPs would be subject to the 25,000 option contract limit.

[23] The Exchange understands from customers that investors have historically transacted in options on ETFs in the OTC options market if such options were not available for trading in a listed environment.

Section 6(b) of the Act.[24] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [25] 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.

In particular, the Exchange believes that the proposal to list and trade options on Bitcoin ETPs will remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, protect investors because offering options on Bitcoin ETPs will provide investors with an opportunity to realize the benefits of utilizing options on a bitcoin-based ETP, including cost efficiencies and increased hedging strategies. The Exchange believes that offering Bitcoin ETP options will benefit investors by providing them with a relatively lower-cost risk management tool, which will allow them to manage their positions and associated risk in their portfolios more easily in connection with exposure to the price of bitcoin and with bitcoin-related products and positions. Additionally, the Exchange's offering of Bitcoin ETP options will provide investors with the ability to transact in such options in a listed market environment as opposed to in the unregulated OTC options market, which would increase market transparency and enhance the process of price discovery conducted on the Exchange through increased order flow to the benefit of all investors. The Exchange also notes that it already lists options on other commodity-based ETFs,[26] which, as described above, are trusts structured in substantially the same manner as Bitcoin ETPs and essentially offer the same objectives and benefits to investors, just with respect to a different commodity (*i.e.,* bitcoin rather than precious metals) and for which the Exchange has not identified any issues with the continued listing and trading of commodity-backed ETFs options it currently lists for trading.

The Exchange also believes the proposed rule change will remove impediments to and perfect the mechanism of a free and open market and a national market system, because it is consistent with current Exchange Rules, previously filed with the Commission. Options on Bitcoin ETPs must satisfy the initial listing standards and continued listing standards currently in the Exchange Rules, applicable to options on all ETFs, including ETFs that hold other commodities already deemed appropriate for options trading on the Exchange. Bitcoin ETP options will trade in the same manner as any other ETFs options—the same Exchange Rules that currently govern the listing and trading of all ETFs options, including permissible expirations, strike prices and minimum increments, and applicable position and exercise limits and margin requirements, will govern the listing and trading of options on Bitcoin ETPs in the same manner.

The Exchange represents that it has the necessary systems capacity to support the new ETF option series. The Exchange believes that its existing surveillance and reporting safeguards are designed to deter and detect possible manipulative behavior which might arise from listing and trading ETF options, including Bitcoin ETP options.

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 does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act as Bitcoin ETPs would need to satisfy the initial listing standards set forth in the Exchange Rules in the same manner as any other ETFs before the Exchange could list options on them. Additionally, Bitcoin ETP options will be equally available to all market participants who wish to trade such options. The Exchange Rules currently applicable to the listing and trading of options on ETFs on the Exchange will apply in the same manner to the listing and trading of all options on Bitcoin ETPs. Also, and as stated above, the Exchange already lists options on other commodity-based ETFs.[27]

The Exchange does not believe that the proposal to list and trade options on Bitcoin ETPs will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. To the extent that the advent of Bitcoin ETP options trading on the Exchange may make the Exchange a more attractive marketplace to market participants at other exchanges, such market participants are free to elect to become market participants on the Exchange. Additionally, other options exchanges are free to amend their listing rules, as applicable, to permit them to list and trade options on Bitcoin ETPs. Additionally, the Exchange notes that listing and trading Bitcoin ETP options on the Exchange will subject such options to transparent exchange-based rules as well as price discovery and liquidity, as opposed to alternatively trading such options in the OTC market. The Exchange believes that the proposed rule change may relieve any burden on, or otherwise promote, competition as it is designed to increase competition for order flow on the Exchange in a manner that is beneficial to investors by providing them with a lower-cost option to hedge their investment portfolios. The Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues that offer similar products. Ultimately, the Exchange believes that offering Bitcoin ETP options for trading on the Exchange will promote competition by providing investors with an additional, relatively low-cost means to hedge their portfolios and meet their investment needs in connection with bitcoin prices and bitcoin-related products and positions on a listed options exchange.

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

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

A. by order approve or disapprove such proposed rule change, or

B. institute proceedings to determine whether the proposed rule change should be disapproved.

[24] 15 U.S.C. 78f(b).

[25] 15 U.S.C. 78f(b)(5).

[26] *See* Exchange Rule 402(i)(4).

[27] *Id.*

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–MIAX–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–MIAX–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–MIAX–2024–03 and should be submitted on or before February 15, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[28]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024–01390 Filed 1–24–24; 8:45 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

License No. 09/09–0471]

Pivotal Capital Fund, LP; Surrender of License of Small Business Investment Company

Pursuant to the authority granted to the United States Small Business Administration under Section 309 of the Small Business Investment Act of 1958, as amended, and 13 CFR 107.1900 of the Code of Federal Regulations to function as a small business investment company under the Small Business Investment Company license number 09/09–0471 issued to Pivotal Capital Fund, LP, said license is hereby declared null and void.

Bailey Devries,

Associate Administrator, Office of Investment and Innovation, United States Small Business Administration.

[FR Doc. 2024–01456 Filed 1–24–24; 8:45 am]

BILLING CODE P

SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA–2023–0048]

Request for Information on Social Security Scientific Integrity Policy

AGENCY: Social Security Administration (SSA).

ACTION: Request for Information.

SUMMARY: The SSA is soliciting comments and suggestions from the public on the DRAFT *Scientific Integrity Policy of the Social Security Administration* (DRAFT SSA Scientific Integrity Policy). The DRAFT SSA Scientific Integrity Policy codifies expectations to preserve scientific integrity throughout SSA scientific activities, establishes key roles and responsibilities for those who will lead the agency's scientific integrity program, and, as appropriate, establishes relevant reporting and evaluation mechanisms.

DATES: To ensure that your comments are considered, we must receive them no later than February 26, 2024.

ADDRESSES: You may submit comments by any one of three methods—internet, fax, or mail. Do not submit the same comments multiple times or by more than one method. Regardless of which method you choose, please state that your comments refer to Docket No. SSA–2023–0048 so that we may associate your comments with the correct docket.

Caution: You should be careful to include in your comments only information that you wish to make publicly available. We strongly urge you not to include in your comments any personal information, such as Social Security numbers or medical information.

1. *Internet:* We strongly recommend that you submit your comments via the internet. Please visit the Federal eRulemaking portal at *www.regulations.gov.* Use the ''Search'' function to find docket number SSA–2023–0048. The system will issue a tracking number to confirm your submission. You will not be able to view your comment immediately because we must post each comment manually. It may take up to a week for your comment to be viewable.

2. *Fax:* Fax comments to 1(833) 410–1631.

3. *Mail:* Mail your comments to the Office of Legislation and Congressional Affairs, Regulations and Reports Clearance, Social Security Administration, 6401 Security Boulevard, 3rd Floor (East) Altmeyer Building, Mail Stop 3253, Baltimore, Maryland 21235–6401.

Comments are available for public viewing on the Federal eRulemaking portal at *www.regulations.gov* or in person, during regular business hours, by arranging with the contact person identified below.

FOR FURTHER INFORMATION CONTACT: Robert Weathers, Office of Retirement and Disability Policy, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235–6401, (410) 615–6965, email: *robert.weathers@ssa.gov.* For information on eligibility or filing for benefits, call our national toll-free number, 1–800–325–0778, or visit our internet site, Social Security Online, at *www.socialsecurity.gov.*

SUPPLEMENTARY INFORMATION: SSA has developed a DRAFT SSA Scientific Integrity Policy to help ensure science and scientific activities are proposed, conducted, reviewed, managed, communicated, and used in ways that preserve accuracy and objectivity. The policy aligns with Federal Government scientific integrity efforts described in the 2021 Presidential Memorandum on *Restoring Trust in Government Through Scientific Integrity and Evidence-Based*

[28] 17 CFR 200.30–3(a)(12).

Policymaking[1] (2021 Presidential Memorandum), as well as the National Science and Technology Council reports, *Protecting the Integrity of Government Science*[2] *(January 2022)* and *A Framework for Federal Scientific Integrity Policy and Practice*[3] *(January 2023).*

Background

For nearly 90 years, we have administered programs and provided services that make a difference in millions of people's lives. In fiscal year (FY) 2023, our programs provided a combined total of about $1.4 trillion in benefit payments to an average of over 70 million beneficiaries. The major programs we administer—the Old-Age Survivors and Disability Insurance program and the Supplemental Security Income program—provide an important source of economic security for millions of Americans. Our fundamental mission is to deliver quality Social Security services that ensure equity and accessibility, improve the customer experience, and address systemic barriers to participation in our programs.

The 2021 Presidential Memorandum states the Administration's goal is to make evidence-based decisions guided by the best available science and data, recognizing that scientific and technological information, data, and evidence are central to the development and iterative improvement of sound policies and to the equitable delivery of programs across every area of the Federal Government. The 2021 Presidential Memorandum emphasizes that political interference in the work of Federal scientists and other scientists who support the work of the Federal Government (*e.g.,* government contractors, volunteers) and in the communication of scientific facts undermines the welfare of the Nation, contributes to systemic inequities and injustices, and violates the trust that the public places in our government to best serve its collective interests.

We conduct scientific activities that include evaluations of pilot projects, evaluations of demonstration projects, quantitative studies, qualitative studies, and mixed methods studies that inform important priorities, such as delivering services effectively, improving the way we conduct business, updating policies and regulations, and ensuring effective stewardship. For example, we conducted evidence-building activities relevant to our Equity Action Plan,[4] which was created in accordance with Executive Order (E.O.) 13985 on Advancing Racial Equity and Support for Underserved Communities Through the Federal Government,[5] as well as E.O. 14058 on Transforming Federal Customer Experience and Service Delivery to Rebuild Trust in Government.[6] This aligns with our *Agency Strategic Plan, Fiscal Years 2022–2026,*[7] which includes a strategy for deepening our understanding of our customers and what drives their evolving service preferences.

We also conduct extramural research, demonstration projects, and outreach under sections 1110, 1115, and 1144 of the Social Security Act (Act). Sections 1110 and 1115 of the Act provide the waiver authority we need to conduct extramural research and demonstration projects, while section 1144 of the Act addresses outreach activities to inform and assist Medicare beneficiaries with low income who may be eligible for Medicare cost sharing or subsidized prescription drug coverage. A previous authority, under section 234 of the Act, allowed us to waive Disability Insurance program rules to enhance labor force participation; that authority sunset in 2022. We currently fund a range of scientific projects designed to:

- Help us keep pace with advancements in medicine and technology;
- Modernize our vocational rules;
- Test work support models;
- Analyze program trends, gaps, and inconsistencies; and
- Measure the public's understanding of our programs, as well as the impact of program changes.

Request for Information (RFI)

Through this RFI, we are asking interested persons, including stakeholders across public and private sectors who may be familiar with or interested in the work of our agency, for input on the DRAFT SSA Scientific Integrity Policy.

We invite suggestions that will help strengthen and promote scientific integrity throughout the agency. The responses to this RFI that interested persons submit to us will be considered as we develop a final SSA Scientific Integrity Policy. This RFI is for information and planning purposes only and should not be construed as a solicitation or as an obligation on our part. We will not respond to the comments we receive in response to this RFI. However, we will use the input to develop our Scientific Integrity Policy.

The Commissioner of the Social Security Administration, Martin O'Malley, having reviewed and approved this document, is delegating the authority to electronically sign this document to Faye I. Lipsky, who is the primary Federal Register Liaison for SSA, for purposes of publication in the **Federal Register**.

Faye I. Lipsky,

Federal Register Liaison, Office of Legislation and Congressional Affairs, Social Security Administration.

[FR Doc. 2024–01494 Filed 1–24–24; 8:45 am]

BILLING CODE 4191–02–P

[1] *See* 86 FR 8845 (January 27, 2021).

[2] *https://www.whitehouse.gov/wp-content/uploads/2022/01/01-22-Protecting_the_Integrity_of_Government_Science.pdf.*

[3] *https://www.whitehouse.gov/wp-content/uploads/2023/01/01-2023-Framework-for-Federal-Scientific-Integrity-Policy-and-Practice.pdf.*

[4] *https://www.ssa.gov/open/materials/SSA-E.O.-13985-Equity-Action-Plan.pdf.*

[5] *https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/executive-order-advancing-racial-equity-and-support-for-underserved-communities-through-the-federal-government/.*

[6] *https://www.whitehouse.gov/briefing-room/presidential-actions/2021/12/13/executive-order-on-transforming-federal-customer-experience-and-service-delivery-to-rebuild-trust-in-government/.*

[7] Social Security Administration, Agency Strategic Plan *Fiscal Years 2022–2026, available at https://www.ssa.gov/agency/asp/materials/pdfs/SSA_Agency_Strategic_Plan_Fiscal_Years_2022-2026.pdf.*

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2024–0002]

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of information collection; request for comment.

SUMMARY: Under the Paperwork Reduction Act of 1995 (PRA) and its implementing regulations, FRA seeks approval of the Information Collection Request (ICR) summarized below. Before submitting this ICR to the Office of Management and Budget (OMB) for approval, FRA is soliciting public comment on specific aspects of the activities identified in the ICR.

DATES: Interested persons are invited to submit comments on or before March 25, 2024.

ADDRESSES: Written comments and recommendations for the proposed ICR should be submitted on *regulations.gov* to the docket, Docket No. FRA–2024 0002. All comments received will be posted without change to the docket, including any personal information provided. Please refer to the assigned OMB control number (2130–0589) in

any correspondence submitted. FRA will summarize comments received in a subsequent 30-day notice and include them in its information collection submission to OMB.

FOR FURTHER INFORMATION CONTACT: Ms. Arlette Mussington, Information Collection Clearance Officer, at email: *arlette.mussington@dot.gov* or telephone: (571) 609–1285 or Ms. Joanne Swafford, Information Collection Clearance Officer, at email: *joanne.swafford@dot.gov* or telephone: (757) 897–9908.

SUPPLEMENTARY INFORMATION: The PRA, 44 U.S.C. 3501–3520, and its implementing regulations, 5 CFR part 1320, require Federal agencies to provide 60 days' notice to the public to allow comment on information collection activities before seeking OMB approval of the activities. *See* 44 U.S.C. 3506, 3507; 5 CFR 1320.8 through 1320.12. Specifically, FRA invites interested parties to comment on the following ICR regarding: (1) whether the information collection activities are necessary for FRA to properly execute its functions, including whether the activities will have practical utility; (2) the accuracy of FRA's estimates of the burden of the information collection activities, including the validity of the methodology and assumptions used to determine the estimates; (3) ways for FRA to enhance the quality, utility, and clarity of the information being collected; and (4) ways for FRA to minimize the burden of information collection activities on the public, including the use of automated collection techniques or other forms of information technology. *See* 44 U.S.C. 3506(c)(2)(A); 5 CFR 1320.8(d)(1).

FRA believes that soliciting public comment may reduce the administrative and paperwork burdens associated with the collection of information that Federal statutes and regulations mandate. In summary, comments received will advance three objectives: (1) reduce reporting burdens; (2) organize information collection requirements in a ''user-friendly'' format to improve the use of such information; and (3) accurately assess the resources expended to retrieve and produce information requested. *See* 44 U.S.C. 3501.

The summary below describes the ICR that FRA will submit for OMB clearance as the PRA requires.

Title: State Highway-Rail Grade Crossing Action Plans.

OMB Control Number: 2130–0589.

Abstract: Section 202 of the Rail Safety Improvement Act (RSIA) [1] of 2008 required the Secretary of Transportation to identify the 10 States that had the most highway-rail grade crossing collisions, on average, over the previous three years and to require those States to develop State highway-rail grade crossing action plans within a reasonable period of time, as determined by the Secretary. Section 202 of the RSIA further provided that these plans must identify specific solutions for improving safety at crossings, including highway-rail grade crossing closures or grade separations, and must focus on crossings that have experienced multiple accidents or are at high risk for such accidents.

In 2020, FRA issued a final rule titled, State Highway-Rail Grade Crossing Action Plans,[2] to implement section 11401(b) of the Fixing America's Surface Transportation Act (FAST Act) which required 40 States and the District of Columbia to develop and implement highway-rail grade crossing action plans. The final rule also required ten States that developed highway-rail grade crossing action plans, as required by RSIA and FRA's implementing regulation, to update their plans and submit reports to FRA describing actions they have taken to implement their plans.

FRA uses the collection of information to ensure that States meet the Congressional mandate and devise and implement suitable plans to reduce/eliminate highway-rail grade collisions. FRA reviews these crossing action plans and crossing action plan revisions to ensure that these plans include the following: (1) identify specific strategies for improving safety at highway-rail grade crossings, including highway-rail grade crossing closures or grade separations; (2) focus on crossings that have experienced multiple accidents or are at high risk for such accidents; and (3) cover a five-year period.

In this 60-day notice, FRA makes no adjustments to the previously approved burden hours and responses in the Office of Information and Regulatory Affairs (OIRA) inventory.[3]

Type of Request: Extension without change of a currently approved collection.

Affected Public: Businesses.

Form(s): N/A.

Respondent Universe: 50 States + District of Columbia.

Frequency of Submission: On occasion.

Reporting Burden:

CFR section	Respondent universe	Total annual responses (A)	Average time per response (B)	Total annual burden hours (C = A * B)	Total cost equivalent in U.S. dollar (D = C * wage rates) [4]
234.11(b)—State highway-rail grade crossing action plans—Development and submission of new action plans—Grouped into high, medium, and low plans.	40 States + District of Columbia.	13.60 burden plans (1.3 high burden + 2.3 medium burden + 4 low burden + 6 minimal burden).	1,510.00 hours (700 hours + 550 hours + 200 hours + 60 hours).	3,376.67	$290,157.25
—(c)(1) Updated action plans (10 listed states in § 234.11(e))—Grouped into high, medium, and low plans.	10 States	3.30 burden plans (1 high burden + 1 medium burden + 1.3 low burden).	1,965.00 hours (1,100 hours + 640 hours + 225 hours).	2,040.00	175,297.20
—(c)(2) Implementation reports (10 listed states in § 234.11(e))—Grouped into high, medium, and low implementation reports.	10 States	3.30 burden reports (1 high burden + 1 medium burden + 1.3 low burden).	320.00 hours (160 hours + 120 hours + 40 hours).	333.33	28,643.05

[1] Public Law 110–432, sec. 202 (Oct. 16, 2008).

[2] 85 FR 80648 (Dec. 14, 2020).

[3] Changes to the total cost equivalent in U.S. dollars, a category not included in the OIRA inventory, are due to updated statistics from the 2022 Surface Transportation Board (STB) Full Year Wage A&B data series.

CFR section	Respondent universe	Total annual responses (A)	Average time per response (B)	Total annual burden hours (C = A * B)	Total cost equivalent in U.S. dollar (D = C * wage rates) [4]
—(f)(2) Notification to FRA by State or District of Columbia (DC) of another official to assume responsibilities described under § 234.11(e)(6).	50 States + District of Columbia.	2.70 notifications	5.00 minutes	0.22	18.90
—(g) FRA review and approval of State highway-rail grade crossing action plans: Disapproved plans needing revision—Grouped into high, medium, and low revised plans.	40 States + District of Columbia.	2.70 revised plans (0.7 high burden + 0.7 medium burden + 1.3 low burden).	189.00 hours (105 hours + 60 hours + 24 hours).	142.00	12,202.06
—(g) FRA review and approval of State highway-rail grade crossing action plans: Disapproved plans needing revision (10 listed States in § 234.11(e))—Grouped into high, medium, and low revised plans.	10 States	0.90 revised plans (0.7 high burden + 0.7 medium burden + 1.3 low burden).	295.00 hours (165 hours + 96 hours + 34 hours).	98.33	8,449.50
Total [5]	N/A	27 responses	N/A	5,991	514,768.00

Total Estimated Annual Responses: 27.

Total Estimated Annual Burden: 5,991 hours.

Total Estimated Annual Burden Hour Dollar Cost Equivalent: $514,768.

FRA informs all interested parties that it may not conduct or sponsor, and a respondent is not required to respond to, a collection of information that does not display a currently valid OMB control number.

Authority: 44 U.S.C. 3501–3520.

Christopher S. Van Nostrand,

Acting Deputy Chief Counsel.

[FR Doc. 2024–01498 Filed 1–24–24; 8:45 am]

BILLING CODE 4910–06–P

[4] The dollar equivalent cost is derived from the 2022 (STB) Full Year Wage A&B data series using employee group 200 (Professional & Administrative) hourly wage rate of $49.10. The total burden wage rate (straight time plus 75%) used in the table is $85.93 ($49.10 × 1.75 = $85.93).

[5] Totals may not add up due to rounding.

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