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

The Code of Federal Regulations is sold by the Superintendent of Documents.

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

5 CFR Part 1631

Technical Correction

AGENCY: Federal Retirement Thrift Investment Board.

ACTION: Correcting amendment.

SUMMARY: The Federal Retirement Thrift Investment Board (FRTIB) is making technical revisions to its regulations after a reorganization of the Office of Participant Services and Office of Communications and Education into a new Office of Participant Experience. This action makes no substantive regulatory changes.

DATES: Effective March 18, 2024.

FOR FURTHER INFORMATION CONTACT: Magali Matarazzi at (202) 864–7006.

SUPPLEMENTARY INFORMATION: The FRTIB administers the Thrift Savings Plan (TSP), which was established by the Federal Employees' Retirement System Act of 1986 (FERSA), Public Law 99–335, 100 Stat. 514. The TSP provisions of FERSA are codified, as amended, largely at 5 U.S.C. 8351 and 8401–79. The TSP is a tax-deferred retirement savings plan for Federal civilian employees and members of the uniformed services. The TSP is similar to cash or deferred arrangements established for private-sector employees under section 401(k) of the Internal Revenue Code (26 U.S.C. 401(k)).

Office Name Change

The FRTIB has reorganized the Office of Participant Services and Office of Communications and Education into a new Office of Participant Experience. This amendment to 5 CFR 1631.3 revises references to former offices of the FRTIB to reflect their new name.

Administrative Procedures Act

The FRTIB is promulgating these corrections without advance notice or an opportunity for comment because the FRTIB for good cause finds that notice and public comment are unnecessary, impracticable, or contrary to the public interest under the ''good cause'' exemption of the Administrative Procedure Act (''APA''). 5 U.S.C. 553(b)(B). The FRTIB finds that notice and comment are unnecessary here because these corrections are merely typographical and technical; they effect no substantive changes to any rule. For the same reason, these corrections fall within the ''good cause'' exception to the delayed effective date provisions of the APA and the Congressional Review Act. 5 U.S.C. 553(d)(3) and 808(2). Accordingly, these corrections are effective upon publication in the **Federal Register**.

Regulatory Flexibility Act

This regulation will not have a significant economic impact on a substantial number of small entities. This regulation will affect Federal employees, members of the uniformed services who participate in the TSP, and beneficiary participants.

Paperwork Reduction Act

This regulation does not require additional reporting under the criteria of the Paperwork Reduction Act.

Unfunded Mandates Reform Act of 1995

Pursuant to the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 602, 632, 653, and 1501–1571, the effects of this regulation on State, local, and tribal governments and the private sector have been assessed. This regulation will not compel the expenditure in any one year of $100 million or more by State, local, and tribal governments, in the aggregate, or by the private sector. Therefore, a statement under 2 U.S.C. 1532 is not required.

Submission to Congress and the General Accounting Office

Pursuant to 5 U.S.C. 801(a)(1)(A), the FRTIB submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States before publication of this rule in the **Federal Register**. This rule is not a major rule as defined at 5 U.S.C. 804(2).

List of Subjects in 5 CFR Part 1631

Availability of records.

Ravindra Deo,
Executive Director, Federal Retirement Thrift Investment Board.

For the reasons stated in the preamble, the FRTIB amends 5 CFR Chapter VI as follows:

PART 1631—AVAILABILITY OF RECORDS

Subpart A—Production or Disclosure of Records Under the Freedom of Information Act, 5 U.S.C. 552

■ 1. The authority citation for subpart A of part 1631 continues to read as follows:

Authority: 5 U.S.C. 552.

■ 2. Amend § 1631.3 by revising paragraphs (a)(1) through (a)(10) and removing paragraph (a)(11) to read as follows:

§ 1631.3 Organization and functions.

(a) * * *

(1) The five part-time members who serve on the Board;

(2) The Office of the Executive Director;

(3) The Office of Participant Experience;

(4) The Office of General Counsel;

(5) The Office of Investments;

(6) The Office of Planning and Risk;

(7) The Office of External Affairs;

(8) The Office of Chief Financial Officer;

(9) The Office of Resource Management; and

(10) The Office of Technology Services.

* * * * *

[FR Doc. 2024–05614 Filed 3–15–24; 8:45 am]

BILLING CODE 6760–01–P

DEPARTMENT OF AGRICULTURE

Rural Housing Service

7 CFR Part 3560

[Docket #: RHS–23–MFH–0025]

RIN 0575–AD23

Changes Related to Reserve Account Administration in Multi-Family Housing (MFH) Direct Loan Programs

AGENCY: Rural Housing Service, U.S. Department of Agriculture (USDA).

ACTION: Final rule.

SUMMARY: The Rural Housing Service (RHS or Agency), a Rural Development (RD) agency of the United States Department of Agriculture (USDA), is updating its regulations and implementing changes related to the administration of property reserve accounts under the Multi-Family Housing (MFH) section 515, Rural Rental Housing (RRH), and section 514, 516 Farm Labor Housing (FLH) programs. This final rule will increase flexibility in project refinancing for additional capital improvements needed at MFH section 515, RRH, and section 514, 516 FLH properties.

DATES: This final rule is effective April 17, 2024.

FOR FURTHER INFORMATION CONTACT: Michael Resnik, Director, Asset Management Division, Multifamily Housing Programs and Housing Service, Rural Development, U.S. Department of Agriculture, 1400 Independence Avenue SW, Washington, DC 20250, telephone: 202–430–3114; or email: *Michael.Resnik@usda.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The RHS, an agency of the USDA, offers a variety of programs to build or improve housing and essential community facilities in rural areas. RHS offers loans, grants, and loan guarantees for single- and multi-family housing, childcare centers, fire and police stations, hospitals, libraries, nursing homes, schools, first responder vehicles and equipment, and housing for farm laborers. RHS also provides technical assistance loans and grants in partnership with non-profit organizations, Indian Tribes, State and Federal government agencies, and local communities.

Title V of the Housing Act of 1949 (Act) authorized the USDA to make housing loans to farmers to enable them to provide habitable dwellings for themselves or their tenants, lessees, sharecroppers, and laborers. The USDA then expanded opportunities in rural areas, making housing loans and grants to rural residents through the Single-Family Housing (SFH) and Multi-Family Housing (MFH) Programs.

The RHS operates the MFH section 515 RRH direct loan program. The section 515 program employs a public-private partnership by providing subsidized loans at an interest rate of one percent to developers to construct or renovate affordable rental complexes in rural areas. This one percent loan keeps the debt service on the property sufficiently low to support below-market rents affordable to low-income tenants. Many of these projects also utilize low-income housing tax credit proceeds.

The RHS also operates the MFH FLH direct loan and grant programs under sections 514 and 516 which provide low interest loans and grants to provide housing for farmworkers. These eligible farmworkers may work either at the borrower's farm (''on-farm'') or at any other farm (''off-farm''). This final rule is designed to increase flexibility in project refinancing for additional capital improvements needed for a section 515 or 514, 516 MFH property.

II. Purpose of This Rulemaking

RHS published a proposed rule on January 9, 2023 [88 FR 1149], in the **Federal Register** to solicit comments on the proposed updates to 7 CFR part 3560 and changes related to the administration of property reserve accounts under the MFH section 515, RRH, and section 514, 516 FLH programs. The MFH direct loan project's general operating account is deemed to contain surplus funds when the balance at the end of the housing project's fiscal year, after all payables, exceeds 20 percent of the operating and maintenance expenses. When a MFH property's Agency-approved budget results in surplus cash at the end of the year, this change to the current regulation will allow the borrower to use surplus cash to fund Agency-approved soft debt. MFH approved soft-debt is a type of debt that generally (1) is not immediately due and payable, (2) has lenient repayment terms, and/or (3) has no-interest or low-interest rates, for example a ''cash flow note''. Soft debt is often provided by State or local government as vital, additional sources of MFH direct loan property rehabilitation funding. This final rule change will allow owners the flexibility to access surplus cash notes as a new source of capital for property improvements, and to implement operating cost increases in property reserve contributions. It is designed to increase flexibility in project refinancing for additional capital improvements under 7 CFR 3560.306 to implement changes related to the administration of property reserve accounts under the MFH section 515, RRH, and section 514, 516 FLH programs.

III. Discussion of Public Comments

In response to the published proposed rule on January 9, 2023 [88 FR 1149], RHS received two identical comments from one respondent with positive feedback on the MFH programs. The comment did not include direct statements regarding the proposed changes and is not applicable to the contents of the rule. The comments did not result in the Agency changing plans for the final rule.

IV. Summary of Changes

The changes to amend 7 CFR 3560.306 include reducing debt service on other third-party debt, as an allowable use of funds, including payments toward cash flow notes. Allowing borrowers to use surplus funds to repay third-party debt would allow those borrowers to access State and local government funding available as a capital source for property improvements. Acceptable third-party debt, including cash flow notes, will take the form of a written agreement for the payment of an Agency-approved debt obligation, with or without interest. Payments may occur only after approval has been granted by the Agency. These changes are designed to improve property condition and increase tools available to borrowers to preserve properties as affordable housing resources. This final rule no longer includes the reduction in rents as an allowable use of surplus funds, as rent-setting is part of the annual proposed budget process and should not be included in the reserve account section of this regulation. These changes are designed to improve property condition and increase tools available to borrowers to preserve properties as affordable housing resources.

V. Regulatory Information

Statutory Authority

The RRH and FLH programs are authorized under sections 514, 515, 516 of title V of the Housing Act of 1949, as amended (42 U.S.C. 1484–86); and implemented under 7 CFR part 3560. Section 510(k) of Title V the Housing Act of 1949 (42 U.S.C. 1480(k)), as amended, authorizes the Secretary of Agriculture to promulgate rules and regulations as deemed necessary to carry out the purpose of that title.

Executive Order 12372, Intergovernmental Review of Federal Programs

These loans are subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. RHS conducts intergovernmental consultations for each loan in accordance with 2 CFR part 415, subpart C.

Executive Order 12866, Regulatory Planning and Review

This final rule has been determined to be non-significant and, therefore, was not reviewed by the Office of Management and Budget (OMB) under Executive Order 12866.

Executive Order 12988, Civil Justice Reform

This final rule has been reviewed under Executive Order 12988. In accordance with this rulemaking: (1) Unless otherwise specifically provided, all State and local laws that conflict with this rulemaking will be preempted; (2) no retroactive effect will be given to this rulemaking except as specifically prescribed in the rule; and (3) administrative proceedings of the National Appeals Division of the Department of Agriculture (7 CFR part 11) must be exhausted before suing in court that challenges action taken under this rulemaking.

Executive Order 13132, Federalism

The policies contained in this final rule do not have any substantial direct effect on 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. This final rule does not impose substantial direct compliance costs on State and local governments; therefore, consultation with States is not required.

Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

This executive order imposes requirements on RHS in the development of regulatory policies that have Tribal implications or preempt Tribal laws. RHS has determined that the final rule does not have a substantial direct effect on one or more Indian Tribe(s) or on either the relationship or the distribution of powers and responsibilities between the Federal Government and Indian Tribes. Thus, this final rule is not subject to the requirements of Executive Order 13175. If Tribal leaders are interested in consulting with RHS on this rulemaking, they are encouraged to contact USDA's Office of Tribal Relations or RD's Tribal Coordinator at: *AIAN@usda.gov* to request such a consultation.

National Environmental Policy Act

This document has been reviewed in accordance with 7 CFR part 1970, subpart A, ''Environmental Policies.'' RHS determined that this action does not constitute a major Federal action significantly affecting the quality of the environment. In accordance with the National Environmental Policy Act of 1969, Public Law 91–190, an Environmental Impact Statement (EIS) is not required.

Regulatory Flexibility Act

This final rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601–612). The undersigned has determined and certified by signature on this document that this final rule will not have a significant economic impact on a substantial number of small entities since this rulemaking action does not involve a new or expanded program nor does it require any more action on the part of a small business than required of a large entity.

Unfunded Mandates Reform Act (UMRA)

Title II of the UMRA, Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and Tribal governments and on the private sector. Under section 202 of the UMRA, Federal agencies generally must prepare a written statement, including cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, or Tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. When such a statement is needed for a rule, section 205 of the UMRA generally requires a Federal agency to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule.

This final rule contains no Federal mandates (under the regulatory provisions of title II of the UMRA) for State, local, and Tribal governments or for the private sector. Therefore, this final rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Paperwork Reduction Act

The information collection requirements contained in this regulation have been approved by OMB and have been assigned OMB control number 0575–0189. This final rule contains no new reporting and recordkeeping requirements that would require approval under the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35).

E-Government Act Compliance

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

Civil Rights Impact Analysis

RD has reviewed this final rule in accordance with USDA Regulation 4300–4, Civil Rights Impact Analysis, to identify any major civil rights impacts the final rule might have on program participants on the basis of age, race, color, national origin, sex, or disability. After review and analysis of the final rule and available data, it has been determined that implementation of the rulemaking will not adversely or disproportionately impact very low, low- and moderate-income populations, minority populations, women, Indian Tribes, or persons with disability by virtue of their race, color, national origin, sex, age, disability, or marital or familial status. No major civil rights impact is likely to result from this final rule.

Assistance Listing

The program affected by this regulation is listed in the Assistance Listing Catalog (formerly Catalog of Federal Domestic Assistance) under number 10.415–Rural Rental Housing Loans.

Non-Discrimination Statement Policy

In accordance with Federal civil rights laws and USDA civil rights regulations and policies, the USDA, its Mission Areas, agencies, staff offices, employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Program information may be made available in languages other than English. Persons with disabilities who require alternative means of communication to obtain program information (*e.g.,* Braille, large print, audiotape, American Sign Language) should contact the responsible Mission

Area, agency, or staff office; or the 711 Relay Service.

To file a program discrimination complaint, a complainant should complete a Form AD–3027, *USDA Program Discrimination Complaint Form,* which can be obtained online at *https://www.usda.gov/sites/default/files/documents/ad-3027.pdf* from any USDA office, by calling (866) 632–9992, or by writing a letter addressed to USDA. The letter must contain the complainant's name, address, telephone number, and a written description of the alleged discriminatory action in sufficient detail to inform the Assistant Secretary for Civil Rights (ASCR) about the nature and date of an alleged civil rights violation. The completed AD–3027 form or letter must be submitted to USDA by:

a. *Mail:* U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW, Washington, DC 20250–9410; or

b. *Fax:* (833) 256–1665 or (202) 690–7442; or

c. *Email: program.intake@usda.gov.*

List of Subjects in 7 CFR Part 3560

Accounting, Administrative practice and procedure, Aged, Conflicts of interest, Government property management, Grant programs—housing and community development, Insurance, Loan programs—agriculture, Loan programs—housing and community development, Low and moderate-income housing, Migrant labor, Mortgages, Nonprofit organizations, Public housing, Rent-subsidies, Reporting and recordkeeping requirements, Rural areas.

For the reasons discussed in the preamble, the Agency amends 7 CFR part 3560 as follows:

PART 3560—DIRECT MULTI-FAMILY HOUSING LOANS AND GRANTS

■ 1. The authority citation for part 3560 continues to read as follows:

Authority: 42 U.S.C. 1480.

■ 2. Amend § 3560.306 by revising paragraph (d)(2) to read as follows:

§ 3560.306 Reserve account.

* * * * *

(d) * * *

(2) If a housing project's general operating account has surplus funds at the end of the housing project's fiscal year per paragraph (d)(1) of this section, the borrower will be required to use such surplus for one of the following (not in priority order): use the surplus funds to address capital needs, make a deposit in the reserve account or reduce the debt service on the borrower's loans, including Agency-approved third-party debt. The prior written consent of the Agency must be obtained before surplus funds may be used to pay debt service on third-party debt. At the end of the borrower's fiscal year, if the borrower is required to transfer surplus funds from the general operating account to the reserve account, the transfer does not change the future required contributions to the reserve account.

* * * * *

Yvonne Hsu,

Acting Administrator, Rural Housing Service.

[FR Doc. 2024–05571 Filed 3–15–24; 8:45 am]

BILLING CODE 3410–XV–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2023–1709; Project Identifier MCAI–2022–01642–T; Amendment 39–22685; AD 2024–04–06]

RIN 2120–AA64

Airworthiness Directives; Airbus Canada Limited Partnership (Type Certificate Previously Held by C Series Aircraft Limited Partnership (CSALP); Bombardier, Inc.) Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Airbus Canada Limited Partnership Model BD–500–1A10 and BD–500–1A11 airplanes. This AD was prompted by reports of mechanical wear damage on the motive flow fuel-feed tubes that were secured by bonding clamps and clamp blocks inside the collector tank. This AD requires repetitive operational checks of the gravity cross flow shut-off valve and, for certain airplanes, a one-time inspection of the motive flow fuel-feed tubes at the clamp blocks location, and corrective action if necessary, as specified in a Transport Canada AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective April 22, 2024.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of April 22, 2024.

ADDRESSES:

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2023–1709; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

Material Incorporated by Reference:

- For material identified in this final rule, contact Transport Canada, Transport Canada National Aircraft Certification, 159 Cleopatra Drive, Nepean, Ontario K1A 0N5, Canada; telephone 888–663–3639; email *TC.AirworthinessDirectives-Consignesdenavigabilite.TC@tc.gc.ca;* website *tc.canada.ca/en/aviation.*
- You may view this material that is incorporated by reference at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th Street, Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available in the AD docket at *regulations.gov* under Docket No. FAA–2023–1709.

FOR FURTHER INFORMATION CONTACT: Joseph Catanzaro, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7366; email *joseph.catanzaro@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Airbus Canada Limited Partnership (Type Certificate previously held by C Series Aircraft Limited Partnership (CSALP); Bombardier, Inc.) Model BD–500–1A10 and BD–500–1A11 airplanes. The NPRM published in the **Federal Register** on August 14, 2023 (88 FR 54949). The NPRM was prompted by AD CF–2022–70, dated December 21, 2022, issued by Transport Canada, which is the aviation authority for Canada (Transport Canada AD CF–2022–70) (also referred to as the MCAI). The MCAI states there have been several findings of mechanical wear damage on the motive flow fuel-feed tubes that were secured by bonding clamps and clamp blocks inside the collector tank. In some instances, the wear damage led to a hole in a motive flow fuel-feed tube resulting in a fuel imbalance during flight that required the flightcrews to correct the imbalance using the gravity

transfer system. Failure of the affected motive flow fuel-feed tubes and a subsequent failure of the gravity transfer system could lead to a fuel imbalance condition resulting in a reduction in airplane functional capabilities and increased crew workload.

The FAA is issuing this AD to address the unsafe condition on these products.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2023–1709.

Discussion of Final Airworthiness Directive

Comments

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

The FAA received additional comments from one commenter, Delta Air Lines (Delta). The following presents the comments received on the NPRM and the FAA's response to each comment.

Request To Update the Service Information to the Latest Revision

Delta requested that an exception be added to paragraph (h) of the proposed AD to clarify the steps in vendor service bulletin referenced in Airbus Service Bulletin BD500–282015 Issue 003, dated November 10, 2022, until Issue 004 is published. Delta noted that when Airbus Service Bulletin BD500–282015 Issue 004 is published, operators can use Issue 004 as specified in Transport Canada AD CF–2022–70, which includes the text ''ACLP SB BD500–282015, Issue 003, dated 10 November 2022, or later revisions approved by the Chief, Continuing Airworthiness, Transport Canada.''

The FAA agrees that operators can use Airbus Service Bulletin BD500–282015 Issue 004 that was published on December 4, 2023, which includes changes to the steps in the vender service bulletin referenced in Airbus Service Bulletin BD500–282015 Issue 003, dated November 10, 2022. However, the FAA has not added an exception to this AD because the MCAI, which is incorporated by reference, already permits later approved revisions of the service information. In any event, operators can use Airbus Service Bulletin BD500–282015 Issue 003, dated November 10, 2022, without exceptions, to address the unsafe condition.

Request for Allowance To Replace Instead of Repair the Fuel Tube

Delta requested another exception be added to paragraph (h) of the proposed AD to allow performing step 2.7 in lieu of step 2.6 of Airbus Service Bulletin BD500–282015 Issue 003, dated November 10, 2022. Step 2.6 states ''On the fuel tube (1), if there is damage to the paint only (with no bare metal visible)'' and Step 2.7 states ''On the fuel tube (1), if there is damage and bare metal is exposed.'' Determining paint damage to a fuel tube is subjective and difficult to ensure just paint was removed. Delta would like to replace the motive flow tubes instead of repairing them as required in Step 2.6. Delta stated that during the accomplishment of Step 2.5 that requires a visual inspection of the fuel tube (1) for damage, the option to replace the fuel tube(s) should be made available.

The FAA agrees with the request. Paint damage assessment is subjective and replacing the fuel tube(s) is an acceptable method of compliance instead of repairing the fuel tube(s). The FAA has changed this AD to include an additional exception to paragraph (h) of this AD.

Request for Allowance for Alternative Access

Delta requested that the FAA identify required for compliance (RC) steps in the vendor service information referenced in Airbus Service Bulletin BD500–282015 Issue 003, dated November 10, 2022. Delta stated there is no RC paragraph in the vendor service information and that there are errors in the open-up steps. Delta stated that it is important for the FAA to identify RC steps so that operators can correctly gain access to the motive flow tubes in collector tanks common to Ribs 5–6 of the left-hand and right-hand wing.

The FAA acknowledges the commenter's request; however, although the vendor service information does not identify RC steps, it does allow operators to use alternative access. In the job set-up section of the vendor service information, it specifies that ''The steps in the Job set-up section of this service bulletin are recommended steps. The steps give a recommendation to get access to the work area. This recommendation is to give a safe work area and to minimize possible damage to surrounding aircraft parts. Alternative steps can be used at the discretion of the operator.'' The FAA has not changed this AD in this regard.

Conclusion

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

Related Service Information Under 1 CFR Part 51

Transport Canada AD CF–2022–70 specifies procedures for performing a repetitive operational check of the gravity cross flow shut-off valve and, for certain airplanes, inspecting the motive flow fuel-feed tubes for mechanical wear damage (damage includes cracks, scores, scratches, nicks, and gouges) and pre-load condition, and, based on findings, replacing the motive flow fuel-feed tube. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Interim Action

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

Costs of Compliance

The FAA estimates that this AD affects 84 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Up to 16.5 work-hours × $85 per hour = $1,403	$0	Up to $1,403	Up to $117,810.

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

ESTIMATED COSTS OF ON-CONDITION ACTIONS

Labor cost	Parts cost	Cost per product
12 work-hours × $85 per hour = $1,020	$5,256	$6,276

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2024–04–06 Airbus Canada Limited Partnership (Type Certificate Previously Held by C Series Aircraft Limited Partnership (CSALP); Bombardier, Inc.): Amendment 39–22685; Docket No. FAA–2023–1709; Project Identifier MCAI–2022–01642–T.

(a) Effective Date

This airworthiness directive (AD) is effective April 22, 2024.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus Canada Limited Partnership (Type Certificate previously held by C Series Aircraft Limited Partnership (CSALP); Bombardier, Inc.) Model BD–500–1A10 and BD–500–1A11 airplanes, certificated in any category, as identified in Transport Canada AD CF–2022–70, dated December 21, 2022 (Transport Canada AD CF–2022–70).

(d) Subject

Air Transport Association (ATA) of America Code: 28, Fuel.

(e) Unsafe Condition

This AD was prompted by reports of mechanical wear damage on the motive flow fuel-feed tubes that were secured by bonding clamps and clamp blocks inside the collector tank. The FAA is issuing this AD to address mechanical wear damage on the motive flow fuel-feed tubes. Failure of the affected motive flow fuel-feed tubes and a subsequent failure of the gravity transfer system could lead to a fuel imbalance condition resulting in a reduction in airplane functional capabilities and increased crew workload.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, Transport Canada AD CF–2022–70.

(h) Exceptions to Transport Canada AD CF–2022–70

(1) Where Transport Canada AD CF–2022–70 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where Transport Canada AD CF–2022–70 specifies ''hours air time'', this AD requires replacing that text with ''flight hours.''

(3) Where Part II of Transport Canada AD CF–2022–70 specifies ''rectify as required,'' this AD requires replacing that text with ''accomplish all corrective actions before further flight.''

(4) Where the service information referenced in Part II of Transport Canada AD CF–2022–70 specifies to do rework if there is no damage or paint damage only, operators may either do the rework or replace the fuel tubes as specified in the service information referenced in Part II of Transport Canada AD CF–2022–70.

(i) No Reporting Requirement

Although the service information referenced in Transport Canada AD CF–2022–70 specifies to submit certain information to the manufacturer, this AD does not include that requirement.

(j) Additional AD Provisions

The following provisions also apply to this AD:

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

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

(k) Additional Information

For more information about this AD, contact Joseph Catanzaro, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7366; email *joseph.catanzaro@faa.gov.*

(l) Material Incorporated by Reference

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

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

(i) Transport Canada AD CF–2022–70, dated December 21, 2022.

(ii) [Reserved]

(3) For Transport Canada AD CF–2022–70, contact Transport Canada, Transport Canada National Aircraft Certification, 159 Cleopatra Drive, Nepean, Ontario K1A 0N5, Canada; telephone 888–663–3639; email: *TC.AirworthinessDirectives-Consignesdenavigabilite.TC@tc.gc.ca;* website: *tc.canada.ca/en/aviation.*

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

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

Issued on March 11, 2024.

Victor Wicklund,

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

[FR Doc. 2024–05493 Filed 3–15–24; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2023–2144; Project Identifier MCAI–2023–00898–T; Amendment 39–22683; AD 2024–04–04]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is superseding Airworthiness Directive (AD) 2018–14–09, which applied to certain Airbus SAS Model A318 series airplanes; Model A319 series airplanes; Model A320–211, –212, –214, –216, –231, –232, and –233 airplanes; and Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes. AD 2018–14–09 required repetitive inspections for cracking of the fastener holes in certain fuselage frames, and depending on airplane configuration, provides an optional terminating action to the repetitive inspections. This AD was prompted by reports of early cracking on the four holes of the crossbeam splicing at certain fuselage frames (FR). This AD continues to require the actions in AD 2018–14–09 at modified compliance times, requires further inspections, and provides optional terminating actions for certain airplanes; as specified in European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective April 22, 2024.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of April 22, 2024.

ADDRESSES:

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2023–2144; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

Material Incorporated by Reference:

- For material incorporated by reference in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* website *easa.europa.eu.* You may find this material on the EASA website at *ad.easa.europa.eu.*
- You may view this material that is incorporated by reference at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available in the AD docket at *regulations.gov* under Docket No. FAA–2023–2144.

FOR FURTHER INFORMATION CONTACT: Timothy Dowling, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 817–222–5102; email *timothy.p.dowling@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2018–14–09, Amendment 39–19329 (83 FR 34034, July 19, 2018) (AD 2018–14–09). AD 2018–14–09 applied to certain Airbus SAS Model A318 series airplanes; Model A319 series airplanes; Model A320–211, –212, –214, –216, –231, –232, and –233 airplanes; and Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes. AD 2018–14–09 required repetitive inspections for cracking of the fastener holes in certain fuselage frames, and depending on airplane configuration, provides an optional terminating action to the repetitive inspections. The FAA issued AD 2018–14–09 to address cracking at two upper rows of fasteners of the crossbeam splicing at frame (FR)16 and FR20, on both the left-hand (LH) and right-hand (RH) sides, which can result in reduced structural integrity of the airplane due to the failure of structural components.

The NPRM published in the **Federal Register** on November 6, 2023 (88 FR 76147). The NPRM was prompted by AD 2023–0150, dated July 20, 2023 (EASA AD 2023–0150) (also referred to as the MCAI), issued by EASA, which is the Technical Agent for the Member States of the European Union. The MCAI states that repetitive inspections were instituted due to reports of cracks on the four holes of the crossbeam splicing at FR16 and FR20 on both LH and RH sides. Following further assessments, the need was determined for additional inspections, reduced

compliance times, and an additional terminating action option.

In the NPRM, the FAA proposed to continue to require repetitive inspections for cracking of the fastener holes in certain fuselage frames, and depending on airplane configuration, to provide an optional terminating action to the repetitive inspections, as specified in EASA AD 2023–0150. The FAA is issuing this AD to address the unsafe condition on these products.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2023–2144.

Discussion of Final Airworthiness Directive

Comments

The FAA received comments from American Airlines and United Airlines. The following presents the comments received on the NPRM and the FAA's response.

Request To Allow Previously Issued Alternative Methods of Compliance (AMOCs)

American Airlines and United Airlines requested that the proposed AD be changed to allow the use of previously issued AMOCs including global AMOC AIR–731–23–00448, dated September 19, 2023, for certain actions of AD 2018–14–09 that are retained in this AD.

The FAA agrees and has redesignated paragraph (j)(1) of the proposed AD as paragraphs (j)(1) and (j)(1)(i) of this AD and has added paragraph (j)(1)(ii) of this AD to allow the use of applicable previously issued AMOCs.

Conclusion

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

Related Service Information Under 1 CFR Part 51

EASA AD 2023–0150 specifies procedures for repetitive rototest inspections for cracking of the holes in certain fuselage frames and crossbeams and applicable corrective actions (including repairing cracking and replacing fasteners); and, for certain airplanes, procedures for modifying the airplane, including cold working instructions in certain fuselage frames and crossbeams, which would terminate the inspections (optional terminating action). This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

The FAA estimates that this AD affects 1,680 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Retained actions from AD 2018–14–09	31 work-hours × $85 per hour = $2,635	$0	$2,635	$4,426,800

ESTIMATED COSTS FOR OPTIONAL ACTIONS

Labor cost	Parts cost	Cost per product
28 work-hours × $85 per hour = $2,380	$3,020	$5,400

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

ESTIMATED COSTS OF ON-CONDITION REPLACEMENTS

Labor cost	Parts cost	Cost per product
14 work-hours × $85 per hour = $1,190	$50	$1,240

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

Authority for This Rulemaking

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

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

Regulatory Findings

This AD will not have federalism implications under Executive Order

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by:

■ a. Removing Airworthiness Directive (AD) 2018–14–09, Amendment 39–19329 (83 FR 34034, July 19, 2018); and

■ b. Adding the following new AD:

2024–04–04 Airbus SAS: Amendment 39–22683; Docket No. FAA–2023–2144; Project Identifier MCAI–2023–00898–T.

(a) Effective Date

This airworthiness directive (AD) is effective April 22, 2024.

(b) Affected ADs

This AD replaces AD 2018–14–09, Amendment 39–19329 (83 FR 34034, July 19, 2018) (AD 2018–14–09).

(c) Applicability

This AD applies to Airbus SAS Model A318–111, –112, –121, and –122 airplanes; Model A319–111, –112, –113, –114, –115, –131, –132, and –133 airplanes; Model A320–211, –212, –214, –216, –231, –232, and –233 airplanes; and Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes; certificated in any category, all manufacturer serial numbers, except the airplanes specified in paragraphs (c)(1) through (3) of this AD.

(1) Airplanes on which Airbus SAS modification 161255 has been embodied in production.

(2) Model A319 series airplanes on which Airbus SAS modifications 28238, 28162, and 28342 have been concurrently embodied in production.

(3) Model A318 series airplanes on which Airbus SAS modification 39195 has been embodied in production.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by reports of early cracking on the four holes of the crossbeam splicing at certain fuselage frames (FR). The FAA is issuing this AD to address cracking at two upper rows of fasteners of the crossbeam splicing at FR16 and FR20, on both the left-hand (LH) and right-hand (RH) sides. The unsafe condition, if not addressed, could result in reduced structural integrity of the airplane due to the failure of structural components.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2023–0150, dated July 20, 2023 (EASA AD 2023–0150).

(h) Exceptions to EASA AD 2023–0150

(1) Where EASA AD 2023–0150 refers to ''28 July 2016 [the effective date of EASA AD 2016–0139],'' this AD requires using August 23, 2018 (the effective date of AD 2018–14–09).

(2) Where EASA AD 2023–0150 refers to its effective date, this AD requires using the effective date of this AD.

(3) Where rows B and C of the ''Threshold'' column in Table 1 of EASA AD 2023–0150 refer to ''54 800 FH,'' for this AD, replace that text with ''54 900 FH.''

(4) Where paragraph (5) of EASA AD 2023–0150 refers to ''valid within the EASA system,'' for this AD, replace that text with ''approved by the FAA, EASA, Airbus SAS's EASA Design Organization Approval (DOA), or an EASA DOA (other than Airbus SAS's EASA DOA).''

(5) Where paragraph (5) of EASA AD 2023–0150 specifies ''contact that design approval holder (DAH) for assessment and repair instructions, obtain EASA AMOC approval and accomplish those instructions accordingly, as applicable,'' for this AD, replace that text with ''modify the repair using a method approved by the Manager, International Validation Branch, FAA; or EASA; or Airbus SAS's EASA DOA. If approved by the DOA, the approval must include the DOA-authorized signature.''

(6) Where the service information referenced in paragraphs (8) and (9) of EASA AD 2023–0150 refers to actions when an existing hole diameter is ''more than or equal to the minimum starting hole diameter,'' for this AD, replace that text with ''more than or equal to the maximum starting hole diameter.''

(7) This AD does not adopt the ''Remarks'' section of EASA AD 2023–0150.

(i) No Reporting Requirement

Although the service information referenced in EASA AD 2023–0150 specifies to submit certain information to the manufacturer, this AD does not include that requirement.

(j) Additional AD Provisions

The following provisions also apply to this AD:

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

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

(ii) AMOCs approved previously for AD 2018–14–09 are approved as AMOCs for the corresponding provisions of EASA AD 2023–0150 that are required by paragraph (g) of this AD.

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

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

(k) Additional Information

For more information about this AD, contact Timothy Dowling, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 817–222–5102; email *timothy.p.dowling@faa.gov.*

(l) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2023–0150, dated July 20, 2023.

(ii) [Reserved]

(3) For EASA AD 2023–0150, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* website *easa.europa.eu.* You may find this EASA AD on the EASA website at *ad.easa.europa.eu.*

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

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

Issued on March 11, 2024.

Victor Wicklund,

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

[FR Doc. 2024–05494 Filed 3–15–24; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2023–2138; Project Identifier MCAI–2023–00870–T; Amendment 39–22686; AD 2024–04–07]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Airbus SAS Model A318, A319, A320, and A321 airplanes. This AD was prompted by a determination that new or more restrictive airworthiness limitations are necessary. This AD requires revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations, as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective April 22, 2024.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of April 22, 2024.

ADDRESSES:

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2023–2138; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

Material Incorporated by Reference:

- For material incorporated by reference in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* website *easa.europa.eu.* You may find this material on the EASA website at *ad.easa.europa.eu.*
- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available in the AD docket at *regulations.gov* under Docket No. FAA–2023–2138.

FOR FURTHER INFORMATION CONTACT: Timothy Dowling, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 206–231–3367; email *Timothy.P.Dowling@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Airbus SAS Model A318, A319, A320, and A321 airplanes. The NPRM published in the **Federal Register** on October 31, 2023 (88 FR 74376). The NPRM was prompted by AD 2023–0138, dated July 13, 2023 (EASA AD 2023–0138) (also referred to as the MCAI), issued by EASA, which is the Technical Agent for the Member States of the European Union. The MCAI states that new airworthiness limitations are necessary.

In the NPRM, the FAA proposed to require revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations, as specified in EASA AD 2023–0138.

The FAA is issuing this AD to address safety-significant latent failures (that are not annunciated), which, in combination with one or more other specific failures or events, could result in a hazardous or catastrophic failure condition.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2023–2138.

Discussion of Final Airworthiness Directive

Comments

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

The FAA also received comments from Delta Air Lines. The following presents the comments received on the NPRM and the FAA's response to each comment.

Request for Clarification of Paragraph (i) Referencing Service Information

Delta requested clarification of the statement in paragraph (i) of the proposed AD that references later-approved revisions within the ''Ref. Publications'' section of EASA AD 2023–0138. Delta requested adding an exception in paragraph (h) of the proposed AD that replaces the language in the EASA AD 2023–0138 section ''Ref. Publications'' from ''the above-mentioned document, or of an ALS revision'' to ''the above-mentioned document, or of an ALS revision or variation.'' Delta stated this change would help clarify whether an AMOC (alternative method of compliance) is required to use future variations of Airbus A318/A319/A320/A321 ALS Part 3 Certification Maintenance Requirements (CMR), Revision 08 (Var 8.3 or later).

Delta also requested clarification of the statement within the section ''Ref. Publications'' of EASA AD 2023–0138, referred to in paragraph (i) of the proposed AD, that references later-approved revisions ''which include the technical content of the variation.'' Delta wanted to know if a later-approved variation or revision is acceptable to use if the technical content of the variation is updated in some way, and not exactly the same. The commenter requested this clarification to better understand the allowance provided by the provisions of the ''Ref. Publications'' section of EASA AD 2023–0138.

The FAA disagrees with changing paragraph (h) of this AD. The later version of Airbus A318/A319/A320/A321 ALS Part 3 Certification Maintenance Requirements (CMR) would be acceptable for compliance as

long as EASA has also approved it. Any subsequent issue of that document containing the technical information presented in that variation that has been approved by the certifying authority can be used without the need to obtain an AMOC. For confirmation regarding the appropriateness of using service information associated with this AD, Delta may contact their local FAA office for further guidance.

Conclusion

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

Related Service Information Under 1 CFR Part 51

The FAA reviewed EASA AD 2023–0138, which specifies new or more restrictive airworthiness limitations for airplane structures and safe life limits. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

The FAA estimates that this AD affects 1,680 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

The FAA has determined that revising the existing maintenance or inspection program takes an average of 90 work-hours per operator, although the agency recognizes that this number may vary from operator to operator. Since operators incorporate maintenance or inspection program changes for their affected fleet(s), the FAA has determined that a per-operator estimate is more accurate than a per-airplane estimate. Therefore, the agency estimates the average total cost per operator to be $7,650 (90 work-hours × $85 per work-hour).

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2024–04–07 Airbus SAS: Amendment 39–22686; Docket No. FAA–2023–2138; Project Identifier MCAI–2023–00870–T.

(a) Effective Date

This airworthiness directive (AD) is effective April 22, 2024.

(b) Affected ADs

This AD affects AD 2023–04–06, Amendment 39–22353 (88 FR 13665, March 6, 2023) (AD 2023–04–06).

(c) Applicability

This AD applies to Airbus SAS airplanes, identified in paragraphs (c)(1) through (4) of this AD, certificated in any category, with an original airworthiness certificate or original export certificate of airworthiness issued on or before May 12, 2023.

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

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

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

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

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by a determination that new or more restrictive airworthiness limitations are necessary. The FAA is issuing this AD to address safety-significant latent failures (that are not annunciated), which, in combination with one or more other specific failures or events, could result in a hazardous or catastrophic failure condition.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2023–0138, dated July 13, 2023 (EASA AD 2023–0138).

(h) Exceptions to EASA AD 2023–0138

(1) This AD does not adopt the requirements specified in paragraphs (1) and (2) of EASA AD 2023–0138.

(2) Paragraph (3) of EASA AD 2023–0138 specifies revising ''the approved AMP'' within 12 months after its effective date, but this AD requires revising the existing maintenance or inspection program, as applicable, within 90 days after the effective date of this AD.

(3) The initial compliance time for doing the tasks specified in paragraph (3) of EASA 2023–0138 is at the applicable ''associated thresholds'' as incorporated by the requirements of paragraph (3) of EASA AD 2023–0138, or within 90 days after the effective date of this AD, whichever occurs later.

(4) This AD does not adopt the provisions specified in paragraphs (4) of EASA AD 2023–0138.

(5) This AD does not adopt the ''Remarks'' section of EASA AD 2023–0138.

(i) Provisions for Alternative Actions and Intervals

After the existing maintenance or inspection program has been revised as required by paragraph (g) of this AD, no alternative actions (*e.g.,* inspections), and intervals are allowed unless they are approved as specified in the provisions of the ''Ref. Publications'' section of EASA AD 2023–0138.

(j) Terminating Action for Certain Tasks Required by AD 2023–04–06

Accomplishing the actions required by this AD terminates the corresponding requirements of AD 2023–04–06 for the tasks identified in the service information referenced in EASA AD 2023–0138 only.

(k) Additional AD Provisions

The following provisions also apply to this AD:

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

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

(l) Additional Information

For more information about this AD, contact Timothy Dowling, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 206–231–3367; email *Timothy.P.Dowling@faa.gov.*

(m) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2023–0138, dated July 13, 2023.

(ii) [Reserved]

(3) For EASA AD 2023–0138, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* website *easa.europa.eu.* You may find this EASA AD on the EASA website at *ad.easa.europa.eu.*

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

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

Issued on February 16, 2024.

Victor Wicklund,

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

[FR Doc. 2024–05492 Filed 3–15–24; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 31535; Amdt. No. 4103]

Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule establishes, amends, suspends, or removes Standard Instrument Approach Procedures (SIAPS) and associated Takeoff Minimums and Obstacle Departure procedures (ODPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or changing air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective March 18, 2024. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 18, 2024.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination

1. U.S. Department of Transportation, Docket Ops-M30. 1200 New Jersey Avenue SE, West Bldg., Ground Floor, Washington, DC 20590–0001.

2. The FAA Air Traffic Organization Service Area in which the affected airport is located;

3. The office of Aeronautical Information Services, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or,

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

Availability

All SIAPs and Takeoff Minimums and ODPs are available online free of charge. Visit the National Flight Data Center at *nfdc.faa.gov* to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from the FAA Air Traffic Organization Service Area in which the affected airport is located.

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

SUPPLEMENTARY INFORMATION: This rule amends 14 CFR part 97 by establishing, amending, suspending, or removes SIAPS, Takeoff Minimums and/or ODPS. The complete regulatory description of each SIAP and its associated Takeoff Minimums or ODP for an identified airport is listed on FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and 14 CFR 97.20. The applicable FAA Forms 8260–3, 8260–4, 8260–5, 8260–15A, 8260–15B, when required by an entry on 8260–15A, and 8260–15C.

The large number of SIAPs, Takeoff Minimums and ODPs, their complex nature, and the need for a special format make publication in the **Federal Register** expensive and impractical. Further, pilots do not use the regulatory text of the SIAPs, Takeoff Minimums or

ODPs, but instead refer to their graphic depiction on charts printed by publishers or aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP, Takeoff Minimums and ODP listed on FAA form documents is unnecessary. This amendment provides the affected CFR sections and specifies the types of SIAPS, Takeoff Minimums and ODPs with their applicable effective dates. This amendment also identifies the airport and its location, the procedure, and the amendment number.

Availability and Summary of Material Incorporated by Reference

The material incorporated by reference is publicly available as listed in the **ADDRESSES** section.

The material incorporated by reference describes SIAPS, Takeoff Minimums and/or ODPs as identified in the amendatory language for part 97 of this final rule.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP, Takeoff Minimums and ODP as amended in the transmittal. Some SIAP and Takeoff Minimums and textual ODP amendments may have been issued previously by the FAA in a Flight Data Center (FDC) Notice to Air Missions (NOTAM) as an emergency action of immediate flights safety relating directly to published aeronautical charts.

The circumstances that created the need for some SIAP and Takeoff Minimums and ODP amendments may require making them effective in less than 30 days. For the remaining SIAPs and Takeoff Minimums and ODPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs and Takeoff Minimums and ODPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these SIAPs and Takeoff Minimums and ODPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs, Takeoff Minimums and ODPs, and safety in air commerce, I find that notice and public procedure under 5 U.S.C. 553(b) are impracticable and contrary to the public interest and, where applicable, under 5 U.S.C. 553(d), good cause exists for making some SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore-(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Lists of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Incorporation by reference, Navigation (Air).

Issued in Washington, DC, on March 1, 2024.

Thomas J. Nichols,

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

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, 14 CFR part 97 is amended by establishing, amending, suspending, or removing Standard Instrument Approach Procedures and/or Takeoff Minimums and Obstacle Departure Procedures effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

Effective 18 April 2024

Russellville, AR, RUE, RNAV (GPS) RWY 25, Orig-D
Daytona Beach, FL, DAB, RNAV (GPS) RWY 34, Amdt 2G
Ruidoso, NM, SRR, ILS OR LOC RWY 24, Amdt 1
Ruidoso, NM, SRR, RNAV (GPS) RWY 24, Amdt 1
Houston, TX, CXO, RNAV (GPS) RWY 19, Orig-B

Effective 16 May 2024

Talkeetna, AK, TKA/PATK, VOR–A, Amdt 11, CANCELED
Auburn, AL, AUO, ILS OR LOC RWY 36, Amdt 4
Gulf Shores, AL, JKA, RNAV (GPS) RWY 9, Amdt 3C
Montgomery, AL, MGM, RADAR 1, Amdt 9A, CANCELED
Oxnard, CA, OXR, ILS OR LOC RWY 25, Amdt 14
Meeker, CO, EEO, RNAV (GPS) RWY 3, Amdt 4
Meeker, CO, EEO, RNAV (GPS)–B, Amdt 1
Meeker, CO, EEO, VOR–A, Amdt 2
Rangely, CO, 4V0, RNAV (GPS) RWY 25, Orig-A
Cedartown, GA, 4A4, VOR–A, Orig
Fort Stewart (Hinesville), GA, LHW, NDB RWY 33R, Orig-E, CANCELED
Indianapolis, IN, KUMP, Takeoff Minimums and Obstacle DP, Amdt 4
Georgetown, KY, 27K, VOR RWY 3, Amdt 1B, CANCELED
Fitchburg, MA, KFIT, Takeoff Minimums and Obstacle DP, Amdt 6A
Stow, MA, 6B6, RNAV (GPS) RWY 21, Orig-F
Litchfield, MN, KLJF, VOR–A, Amdt 2A, CANCELED
Kinston, NC, ISO, RNAV (GPS) RWY 5, Amdt 3B
Columbus, NE, OLU, VOR RWY 14, Amdt 14F, CANCELED
Teterboro, NJ, KTEB, COPTER ILS Y OR LOC Y RWY 6, Amdt 3
Teterboro, NJ, KTEB, ILS Z OR LOC Z RWY 6, Amdt 31
Teterboro, NJ, KTEB, RNAV (GPS) Y RWY 6, Amdt 4
Albany, NY, ALB, RNAV (GPS) RWY 28, Amdt 1
Port Clinton, OH, PCW, NDB RWY 27, Amdt 14B, CANCELED
Wilmington, OH, ILN, ILS OR LOC RWY 4R, Orig-D, CANCELED
Wilmington, OH, ILN, ILS OR LOC RWY 22L, ILS RWY 22L (SA CAT I), ILS RWY 22L (CAT II), Orig-D, CANCELED
Millington, TN, 2M8, RNAV (GPS) RWY 36, Orig-C
Denton, TX, DTO, RNAV (GPS) RWY 36L, Orig-B
Denton, TX, DTO, RNAV (GPS) RWY 36R, Orig-A
Huntsville, TX, KUTS, Takeoff Minimums and Obstacle DP, Amdt 1
Sherman/Denison, TX, GYI, ILS OR LOC RWY 18L, Amdt 3
Sherman/Denison, TX, GYI, RNAV (GPS) RWY 18L, Amdt 1
Sherman/Denison, TX, GYI, RNAV (GPS) RWY 36R, Amdt 1
Sherman/Denison, TX, GYI, Takeoff Minimums and Obstacle DP, Amdt 1A
Sherman/Denison, TX, GYI, VOR–A, Amdt 2
Stafford, VA, RMN, ILS OR LOC RWY 33, Amdt 1
Stafford, VA, RMN, RNAV (GPS) RWY 33, Amdt 2
Stafford, VA, KRMN, Takeoff Minimums and Obstacle DP, Amdt 2
Auburn, WA, S50, BLAKO ONE, Graphic DP, CANCELED
Auburn, WA, S50, RNAV (GPS) RWY 35, Orig
Auburn, WA, S50, RNAV (GPS)–A, Amdt 2
Auburn, WA, S50, Takeoff Minimums and Obstacle DP, Amdt 2
Auburn, WA, S50, VAMPS ONE, Graphic DP

[FR Doc. 2024–05538 Filed 3–15–24; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 31536; Amdt. No. 4104]

Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule amends, suspends, or removes Standard Instrument Approach Procedures (SIAPs) and associated Takeoff Minimums and Obstacle Departure Procedures for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or changing air traffic requirements. These changes are designed to provide for the safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective March 18, 2024. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 18, 2024.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination

1. U.S. Department of Transportation, Docket Ops–M30, 1200 New Jersey Avenue SE, West Bldg., Ground Floor, Washington, DC 20590–0001;

2. The FAA Air Traffic Organization Service Area in which the affected airport is located;

3. The office of Aeronautical Information Services, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or,

4. The National Archives and Records Administration (NARA).

For information on the availability of this material at NARA, visit *www.archives.gov/federal-register/cfr/ibr-locations* or email *fr.inspection@nara.gov*.

Availability

All SIAPs and Takeoff Minimums and ODPs are available online free of charge. Visit the National Flight Data Center online at *nfdc.faa.gov* to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from the FAA Air Traffic Organization Service Area in which the affected airport is located.

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

SUPPLEMENTARY INFORMATION: This rule amends 14 CFR part 97 by amending the referenced SIAPs. The complete regulatory description of each SIAP is listed on the appropriate FAA Form 8260, as modified by the National Flight Data Center (NFDC)/Permanent Notice to Air Missions (P–NOTAM), and is incorporated by reference under 5 U.S.C. 552(a), 1 CFR part 51, and 14 CFR 97.20. The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, pilots do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained on FAA form documents is unnecessary. This amendment provides the affected CFR sections, and specifies the SIAPs and Takeoff Minimums and ODPs with their applicable effective dates. This amendment also identifies the airport and its location, the procedure and the amendment number.

Availability and Summary of Material Incorporated by Reference

The material incorporated by reference is publicly available as listed in the **ADDRESSES** section.

The material incorporated by reference describes SIAPs, Takeoff Minimums and ODPs as identified in the amendatory language for part 97 of this final rule.

The Rule

This amendment to 14 CFR Part 97 is effective upon publication of each separate SIAP and Takeoff Minimums and ODP as amended in the transmittal. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained for each SIAP and Takeoff Minimums and ODP as modified by FDC permanent NOTAMs.

The SIAPs and Takeoff Minimums and ODPs, as modified by FDC permanent NOTAM, and contained in this amendment are based on criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these changes to SIAPs and Takeoff Minimums and ODPs, the TERPS criteria were applied only to specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a FDC NOTAM as an emergency action of immediate flight safety relating directly to published aeronautical charts.

The circumstances that created the need for these SIAP and Takeoff Minimums and ODP amendments require making them effective in less than 30 days.

Because of the close and immediate relationship between these SIAPs, Takeoff Minimums and ODPs, and safety in air commerce, I find that notice and public procedure under 5 U.S.C. 553(b) are impracticable and contrary to the public interest and, where applicable, under 5 U.S.C. 553(d), good cause exists for making these SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Incorporation by reference, Navigation (Air).

Issued in Washington, DC, on March 1, 2024.

Thomas J. Nichols,

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

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, 14 CFR part 97 is amended by amending Standard Instrument Approach Procedures and Takeoff Minimums and ODPs, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, Identified as follows:

* * * Effective Upon Publication

AIRAC date	State	City	Airport name	FDC No.	FDC date	Procedure name
4/18/24	MO	Cape Girardeau	Cape Girardeau Rgnl	4/0772	2/5/24	RNAV (GPS) RWY 20, Orig-B.
4/18/24	MO	Cape Girardeau	Cape Girardeau Rgnl	4/0785	2/5/24	RNAV (GPS) RWY 2, Orig-A.
4/18/24	MO	Cape Girardeau	Cape Girardeau Rgnl	4/0787	2/5/24	RNAV (GPS) RWY 28, Amdt 1A.
4/18/24	WI	Middleton	Middleton Muni/ Morey Fld.	4/2321	2/9/24	RNAV (GPS) RWY 28, Amdt 2B.
4/18/24	NC	Wallace	Henderson Fld	4/4384	2/13/24	RNAV (GPS) RWY 9, Orig-A.
4/18/24	NC	Wallace	Henderson Fld	4/4385	2/13/24	RNAV (GPS) RWY 27, Orig-B.
4/18/24	MT	Helena	Helena Rgnl	4/5889	1/24/24	RNAV (GPS) Y RWY 9, Amdt 2.

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DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

DEPARTMENT OF THE TREASURY

19 CFR Part 165

[USCBP–2016–0053; CBP Dec. 24–04]

RIN 1515–AE10

Investigation of Claims of Evasion of Antidumping and Countervailing Duties

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security; Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document adopts as final, with changes, interim amendments to the U.S. Customs and Border Protection (CBP) regulations that were published in the **Federal Register** on August 22, 2016, as CBP Dec. 16–11, which implemented procedures to investigate claims of evasion of antidumping and countervailing duty (AD/CVD) orders in accordance with section 421 of the Trade Facilitation and Trade Enforcement Act of 2015. This document also announces that CBP deployed a case management system in April 2021, which CBP and the public use for filing, tracking, and adjudicating allegations of evasion of AD/CVD orders.

DATES: Effective on April 17, 2024.

FOR FURTHER INFORMATION CONTACT: Victoria Cho, Chief, EAPA Investigations Branch, Office of Trade, U.S. Customs and Border Protection, (202) 945–7900, or *victoria.cho@cbp.dhs.gov,* or Kristina Horgan, Supervisory International Trade Analyst, EAPA Investigations Branch, Office of Trade, U.S. Customs and Border Protection, (202) 897–9399, or *kristina.horgan@cbp.dhs.gov.*

SUPPLEMENTARY INFORMATION:

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I. Background

A. Enforce and Protect Act of 2015

On February 24, 2016, President Obama signed into law the Trade Facilitation and Trade Enforcement Act of 2015 (TFTEA), which contains Title IV—Prevention of Evasion of Antidumping and Countervailing Duty Orders (short title ''Enforce and Protect Act of 2015'' or ''EAPA'') (Pub. L. 114–125, 130 Stat. 122, 155 (Feb. 24, 2016) (19 U.S.C. 4301 note)). EAPA established a formal process for U.S. Customs and Border Protection (CBP) to investigate allegations of evasion of antidumping and countervailing duty (AD/CVD) orders. Section 421 of TFTEA amended the Tariff Act of 1930 by establishing a new framework for CBP to investigate allegations of evasion of AD/CVD orders, under newly created section 517 (''Procedures for Investigating Claims of Evasion of Antidumping and Countervailing Duty Orders''), and required that regulations be prescribed as necessary, and provisions be implemented within 180 days of TFTEA's enactment. *See* 19 U.S.C. 1517.

B. Interim Final Rule

On August 22, 2016, CBP published an interim final rule (the ''IFR'') (CBP Dec. 16–11) in the **Federal Register** (81 FR 56477), setting forth procedures for the investigation of claims of evasion of antidumping and countervailing duty orders in a new part 165 in title 19 of the Code of Federal Regulations (19 CFR part 165), with a 60-day public comment period. The IFR became effective on August 22, 2016. On September 8, 2016, CBP published a technical correction in the **Federal Register** (81 FR 62004) to correct language in the definition of ''evade or evasion'' in 19 CFR 165.1, by adding a comma that was inadvertently omitted. On October 21, 2016, CBP published an extension of the comment period in the

Federal Register (81 FR 72692), providing an additional 60 days for interested persons to submit comments in response to the IFR in order to have as much public participation as possible in the formulation of the final rule.

Operations

The first EAPA allegation was submitted to CBP in September 2016, approximately one month after the interim regulations became effective. Between September 2016 and the end of fiscal year 2021, CBP's Trade Remedy Law Enforcement Directorate (TRLED) has processed approximately 490 EAPA allegations and initiated 179 investigations; in addition, CBP has processed 39 requests for administrative review and issued 19 final administrative determinations.

In these past few years, CBP has gained considerable expertise processing EAPA allegations and has continued to ensure that EAPA proceedings are transparent and that all parties are afforded an opportunity for full participation and engagement during the investigation. To enhance convenience and provide further transparency, on April 1, 2021, CBP deployed the EAPA Portal, an electronic case management system for the filing, tracking, and adjudicating of EAPA allegations, and maintaining an administrative record, in one centralized location, which may be accessed on CBP's website at *https://www.cbp.gov/trade/trade-enforcement/tftea/eapa* when clicking on the field titled ''Filing an EAPA Allegation.'' [1]

In the EAPA Portal, parties to the investigation may view decisions and public administrative record documents (including public versions of documents associated with the investigation), check the status of the investigation, and submit factual information, written arguments, and documents relevant to the investigation. The EAPA Portal also sends notifications to the parties to the investigation with deadline reminders and actions to be taken. In addition, when this final rule is effective, an alleger will be able to withdraw an allegation and a Federal agency will be able to withdraw a request for an investigation (referral) in the EAPA Portal.[2] With a new case management system in place, and CBP's extensive experience with the current EAPA process, CBP is now ready to finalize the interim regulations, with several modifications as described below.

II. Discussion of Comments

Although the interim regulatory amendments were promulgated without prior public notice and comment procedures pursuant to the agency organization, procedure, and practice exemption in 5 U.S.C. 553(b)(A), the IFR provided for the submission of public comments that would be considered by CBP before adopting the interim amendments as final. The 60-day public comment period was set to end on October 21, 2016, but was extended that day for an additional 60 days. The extended comment period closed on December 20, 2016.

CBP received 17 submissions in response to the publication of the interim regulations, each of them including comments on multiple topics. The comments involved various aspects of the EAPA process, from the initiation of an investigation to the administrative review of a determination as to evasion. CBP reviewed all public comments received in response to the interim final rule and made some changes to the interim regulations based on those comments. In addition, CBP has included some clarifications where needed to ensure a transparent investigation process. A description of the public comments received, along with CBP's analysis, are set forth below. The comments and responses have been grouped together by subpart of the EAPA regulations, where appropriate.

General Provisions (Subpart A)

Subpart A (General Provisions) provides definitions of terms relevant to the EAPA process, specifies the entries that may be the subject of an allegation, identifies when a power of attorney is required, and addresses the submission of business confidential information. This subpart further sets forth the means by which CBP may obtain information for EAPA proceedings, addresses the circumstances when CBP may apply adverse inferences in an EAPA investigation and in an administrative review, and details the reporting responsibilities in case of public health and safety issues associated with an investigation. Multiple comments were received regarding subpart A, dealing with questions on the various definitions in § 165.1, and the submission requirements in §§ 165.3 and 165.5. Some commenters requested clarification on certain aspects of the application of adverse inferences in case of a party's failure to comply with CBP's request for information.

Comment: Multiple commenters stated that CBP should not require the identification of an importer as a condition for initiation of an investigation. The commenters noted that Congress did not require the identification of an importer of record and that by doing so, CBP could be encouraging the proliferation of shell or paper companies to act as importers. The commenters further stated that TFTEA instructed CBP to investigate any allegation that reasonably suggests that covered merchandise has been entered into the customs territory of the United States through evasion. Therefore, the commenters suggest that CBP should remove the phrase ''by an importer'' in § 165.1 in the ''allegation'' definition, and, for the same reason, remove references to the identification of an importer in various sections of part 165, such as §§ 165.4(c)(3), 165.11(b)(3) and 165.14(b)(1). One commenter referenced the Trade Secrets Act (18 U.S.C. 1905) and the statute's goal to bar against unauthorized disclosure by government officials of confidential information received in the course of their employment or official duties, which could include the identity of an importer. The commenter argued that CBP may protect the identity of an importer without having to narrow the scope of the investigation by simply not requiring the specific identification of an importer of record in an allegation.

Response: CBP disagrees with the commenters' suggestion to remove language in the regulations that requires that an alleger provide the identity of the importer against whom an allegation is filed. The text of 19 U.S.C. 1517(b)(2) refers to ''. . . an allegation that *a person* has entered covered merchandise . . .'' (emphasis added), which requires the specific identification of an importer. Removing the reference to ''a person,'' *i.e.,* an importer, in the regulations, would require a statutory change prior to making a change in the regulation.

[1] Trade users must submit an EAPA allegation through the EAPA Portal. The EAPA Portal can be reached in two ways. First, through the Trade Violation Reporting (TVR) system, also known as e-Allegations, used for reporting various trade violations. Trade users can access e-Allegations at *https://eallegations.cbp.gov/s* and submit an EAPA allegation by clicking on the field entitled ''Report Enforce and Protect Act Violations.'' Second, trade users may also access the EAPA Portal via the EAPA website at *https://cbp.gov/trade/trade-enforcement/tftea/eapa* by clicking the field titled ''Filing an EAPA Allegation.'' To submit an EAPA allegation in the EAPA Portal, trade users must create a CBP user account first, at *https://www.login.gov/create-an-account.* As new technology becomes available, CBP may replace the current process or utilize additional methods for accepting EAPA allegations or requests for investigations from Federal agencies.

[2] Guidance for trade users regarding the EAPA Portal, and additional resources, such as a quick reference guide and a recorded demonstration on how to access and navigate within the EAPA Portal, can be found on CBP's website at *https://www.cbp.gov/trade/trade-enforcement/tftea/eapa* when clicking on the field titled ''Filing an EAPA Allegation'' at the bottom of the page.

Furthermore, CBP considers the requirements in the regulations to be consistent with the Trade Secrets Act. While the Trade Secrets Act protects against the unauthorized disclosure of confidential information, CBP does not consider the identity of the importer to be confidential. In fact, § 165.4(c)(3) specifically states that the name and address of an importer against whom the allegation is brought is not protected as business confidential information.

Comment: One commenter requested that an illustrative list of examples of evasion schemes be included in the definition of ''evade or evasion'' in § 165.1.

Response: CBP agrees with the commenter that it would be helpful to add some examples of evasion to the definition, such as the transshipment, misclassification and/or undervaluation of covered merchandise. Accordingly, CBP has added such language at the end of the definition of ''evade or evasion'' in § 165.1.

Comment: One commenter expressed concern that the EAPA provisions would be misused by domestic interested parties or competitors in an effort to disrupt the supply chains of foreign producers and U.S. importers. Another commenter raised the concern that the EAPA provisions have the potential to brand innocent importers as evaders of the law, regardless of their good faith efforts to comply with AD/CVD orders.

Response: While CBP understands these concerns, CBP carefully investigates and reviews the evidence, in accordance with all applicable legal requirements, at each stage of the process before making a determination as to evasion.

Comment: Multiple commenters asked CBP to expand the list of interested parties who are allowed to participate in EAPA investigations. The commenters argued that the limitation in the interim regulations deprives CBP of the resources, experience, and insights from other domestic producers or importers, especially in cases when Federal agencies request an investigation, such that the domestic industry affected by the evasion would have no right to provide information or otherwise participate in the investigation. One of the commenters suggested to amend the regulation to include in an EAPA investigation, whether initiated pursuant to the filing of an allegation by an interested party or pursuant to a request by a Federal agency, ''any other party meeting the definition of ''interested party'' in § 165.1 that submits an entry of appearance to CBP in a timely fashion,'' in addition to the interested party who filed an allegation and the importer who allegedly engaged in evasion. Two other commenters stated that CBP should expand the regulatory definition of ''interested party'' to align with the broader statutory definition of the ''United States importer'' in section 517(a)(6)(A)(i) of the Tariff Act of 1930.

Response: CBP disagrees with the commenters' requests to expand the list of interested parties who are allowed to participate in EAPA investigations. The primary focus of CBP's determination in an EAPA investigation is narrow, *i.e.,* whether evasion, as defined by 19 U.S.C. 1517(a)(5), occurred or not. CBP's current EAPA process does not allow for interested parties other than the alleger to participate during the first 90 days of an investigation.

Moreover, the regulatory definition of the term ''interested party'' aligns with the statutory definition. *See* 19 U.S.C. 1517(a)(6)(A) and 19 CFR 165.1. Both provisions allow for interested parties to participate in an investigation by filing an allegation. The statutory definition for ''interested party'' includes, *inter alia,* the United States importer of covered merchandise. The regulatory definition of an ''interested party'' in § 165.1, which is not limited to importers of record, but includes any importer of covered merchandise, including the party against whom the allegation is brought, is consistent with the statutory definition.

Comment: One commenter suggested to limit the definition of the term ''importer'' to an importer of record of covered merchandise and amend the definition of ''interested party'' in § 165.1 accordingly. The commenter argued that CBP did not provide any reason for expanding the definition beyond the importer of record, and thus only the alleger and alleged evader should be included in the definition.

Response: CBP disagrees with the commenter's definition of ''importer.'' In current practice, allegations are usually made against importers of record of covered merchandise, in accordance with the statute. However, CBP has defined the term ''importer'' by regulation in 19 CFR 101.1 as the importer of record, the consignee, the actual owner of the merchandise, or the transferee of the merchandise, and CBP may initiate investigations against such parties if an allegation reasonably suggests that evasion is occurring.

Comment: Multiple commenters asked for clarification of the interaction of the evasion provisions with the penalties provision (section 592 of the Tariff Act of 1930, as amended (19 U.S.C. 1592)), the impact of a prior disclosure pursuant to section 592(c)(4) on an EAPA investigation, and identification of appropriate cases involving AD/CVD orders where penalties would be contemplated and potentially assessed. One of the commenters opined that an EAPA investigation is not a section 592 investigation and cannot lead to a section 592 penalties matter; thus, the investigation definition in § 165.1 should be deleted. Another commenter suggested that CBP clarify in § 165.28(a) that CBP is not required to initiate any other actions, including a section 592 proceeding. Lastly, a commenter asked for the revision of § 165.11 to expressly provide that the filing of an evasion allegation operates as a ''formal investigation'' to preclude the acceptance of a prior disclosure, with regard to the same set of facts, importer(s), entries and AD/CVD orders, under 19 U.S.C. 1592.

Response: CBP welcomes the opportunity to provide some clarification in response to the comments received on the interaction between an EAPA investigation and section 592 actions, as well as the impact of a prior disclosure on an EAPA investigation. An importer may be precluded from filing a prior disclosure for violations discovered during the course of an EAPA investigation but may not be precluded from filing a prior disclosure for violations discovered outside of the course of the EAPA investigation. The determination of whether a prior disclosure is accepted requires a fact-specific assessment as to the importer(s), entries and AD/CVD order(s) involved. In addition, CBP disagrees with the commenter's request for a regulatory change to the ''investigation'' definition in § 165.1 as the definition is accurate and should not be removed. CBP retains the discretion to accept or reject a prior disclosure for any facts that were not discovered during the course of an EAPA investigation.

Further, CBP does not agree with the amendment of § 165.28(a), as one of the commenters suggested. CBP appreciates the opportunity to clarify that CBP is not required to initiate any other actions, including section 592 proceedings. If CBP finds that entries are already liquidated when an affirmative determination as to evasion is made, then CBP's recourse to recover the lost duties is to initiate a section 592 proceeding or any other appropriate action separate from the EAPA proceeding. If TRLED makes an affirmative determination of evasion, pursuant to § 165.27, a Center of Excellence and Expertise (Center) will

be directed to collect cash deposits and take other enforcement actions as necessary. TRLED may also refer the case to other components within CBP and partner government agencies (PGAs) to review the facts and perhaps assess a penalty, depending on the circumstances.

Finally, CBP disagrees with the last commenter, that an EAPA investigation operates as a formal investigation and precludes prior disclosure under 19 U.S.C. 1592. The importer who is alleged to have engaged in evasion will have the burden to show that it is not aware of an ongoing investigation. If the importer is able to do so, and meets all other relevant criteria, then the importer may have the opportunity to file a prior disclosure with CBP.

Comment: Multiple commenters stated that the one-year threshold for entries that may be the subject of an allegation is too narrow as it severely restricts the allegations that can be pursued, and thus should be eliminated. One of the commenters argued that there is no statutory support for this limitation. Another commenter suggested the application of a statute of limitations (SOL) that is consistent with the SOL for violations of section 592 of the Tariff Act of 1930, as amended, in order to provide interested parties with sufficient time to uncover evasion and prepare an allegation. *See* 19 U.S.C. 1621. Finally, one commenter expressed support for the regulation and claimed that only entries made within one year before receipt of an allegation may be the subject of an allegation.

Response: CBP appreciates the comments but disagrees that CBP is limited to investigating entries of merchandise made within one year before the receipt of an allegation. As stated in the preamble of the IFR, CBP deemed a one-year period for an EAPA investigation appropriate as it would allow for a timely determination using current and readily available information, and prevent situations where CBP would encounter entries that were already liquidated, or importers that are no longer active. *See* 81 FR 56477, at 56479. Notwithstanding the above, the regulations provide CBP with the discretion to investigate other entries of such covered merchandise, and CBP will exercise such authority on a case-by-case basis. *See* 19 CFR 165.2.

Comment: One commenter stated that § 165.3 does not specify what action CBP will take if the required proof of execution of a power of attorney is missing.

Response: CBP agrees with the commenter's statement and, accordingly, has added a new paragraph (f) in § 165.3, clarifying that CBP will reject any submission, and not consider or place such submission on the administrative record, if a party has not provided proof of execution of a power of attorney to CBP, as required pursuant to the first sentence of paragraph (e) of § 165.3, within five business days of an interested party's first submission during an investigation or administrative review. CBP further added language in the new paragraph (f), that CBP will reject any submission, and not consider or place such submission on the administrative record, if a party has not provided proof of authority to execute a power of attorney pursuant to paragraph (c) of § 165.3 upon CBP's request.

Comment: One commenter stated that CBP did not specify what action it may take if a submission fails to meet the form requirements of § 165.5(b)(1), and thus proposed to add a paragraph (b)(4) to include the rejection of a submission as a consequence for failure to meet those requirements.

Response: CBP welcomes the opportunity to clarify that CBP will reject a submission that does not fulfill the form requirements of § 165.5(b)(1), and will not consider or place it on the administrative record. Accordingly, CBP added a new paragraph (b)(4) in § 165.5 to reflect this clarification. For the same reasons, CBP amended § 165.41(f) to clarify that CBP will reject a request for administrative review if the content requirements in paragraph (f) are not met.

Comment: One commenter stated that it is unclear whether the person making a submission pursuant to § 165.5(b)(2) can be the authorized representative of the party, the party itself, or both. The commenter stated that the final regulation should clarify who needs to sign each type of certification.

Response: CBP disagrees with the commenter's statement. The interim regulation is clear as it reads ''on behalf of,'' allowing for an authorized representative, such as an attorney, in addition to the party itself to make the certification. Moreover, this has not been an issue in practice.

Comment: One commenter expressed concern that adverse inferences may be imposed on a party if an importer complies with CBP's request, but the foreign supplier does not. The commenter requested clarification as to whether evasion could be found in the described scenario with regard to the foreign supplier, but not the importer, and what such a finding would mean in terms of the application of duties or other measures. Another commenter expressed a similar concern and asked for § 165.5 to be amended to include a requirement that CBP notify the importer whenever CBP issues a questionnaire to a foreign supplier to give the importer the opportunity to leverage its relationship with the supplier to obtain the supplier's full cooperation and avoid adverse inferences.

Response: A determination of evasion is based on an analysis of the record, including responses to requests for information by both the U.S. importer and foreign manufacturer. The scenario where one party cooperates to the best of its ability, and another does not, creates a difficult situation for CBP to conduct its analysis, and thus evasion could still be found, depending on the available information. CBP evaluates carefully on a case-by-case basis and may apply adverse inferences as to the party not acting to the best of its ability to cooperate with the investigation, in accordance with 19 U.S.C. 1517(c)(3)(B). The consequences, if any, that flow from such a finding will vary on a case-by-case basis. With regard to the suggestion to include a notification requirement in § 165.5, CBP provides the public versions of all documents, including questionnaires, to all parties to the investigation and does not believe that any additional notifications are necessary.

Comment: Two commenters noted that the use of a party's behavior in a prior proceeding should not be an indicator for whether to apply adverse inferences in the current proceeding, as stated in § 165.6(b), arguing that only the party's behavior in the current proceeding should be relevant for adverse inferences. Another commenter asked CBP to amend paragraph (b) to clarify the distinction between the intent of paragraph (a) and paragraph (b) by stating that CBP may select from facts otherwise available, including information from a prior determination in another CBP investigation, when applying adverse inferences under paragraph (a).

One of the commenters also stated that the way paragraph (c) of § 165.6 is written, it unfairly applies adverse inferences even if the information sought is already on the record. According to the commenter, it should be irrelevant which party provided the information as long as the information was provided to CBP.

Response: CBP disagrees; section 165.6, as written, accurately reflects the statutory language. Both the statute and the regulation distinguish between adverse inferences to be applied when a party fails to cooperate and comply with CBP's request for more information

in the current proceeding (§ 165.6(a) and section 412(b)(1)(A) of TFTEA), and adverse inferences to be applied based on a prior determination in another CBP proceeding, or any other available information (§ 165.6(b) and section 412(b)(2)(B) and (C) of TFTEA). However, to be clearer and avoid any confusion, CBP has revised § 165.6(b) so the regulatory language more closely resembles the statutory language in section 412(b)(2) of TFTEA, without making any changes to the substance of the language. In addition, CBP further amended § 165.6(b) to clarify that CBP may only consider ''any other available information'' that has been placed on the administrative record for purposes of applying adverse inferences.

CBP believes that when it comes to adverse inferences, the determination to be made is whether the party from whom CBP requested information provided the information. The fact that another party had already provided information to CBP does not relieve the party of its obligation to provide the requested information, as the other party's submission may have been incorrect or incomplete. Lastly, as to the commenter's unfairness argument, the regulations allow for due process via administrative review by CBP and judicial review by the U.S. Court of International Trade (CIT) in case an interested party believes that adverse inferences were inappropriately applied.

Comment: One commenter talked about instances where CBP requests information from a foreign government and receives no response, and stated that, in such situations, CBP would need to examine the facts available on the record to determine how to address the failure to respond, and reach a determination based on those facts available.

Response: CBP agrees as 19 U.S.C. 1517(c)(2)(a)(iv) and (c)(3) clearly state that CBP cannot apply adverse inferences as a result of failure of a foreign government to respond to a CBP information request. CBP will make a determination based on the facts available on the administrative record, which may include, among other things, adverse inferences made against other interested parties.

Comment: One commenter stated that the ''to the best of its ability'' standard in § 165.6(a) is vague and lacks a definition. The commenter argued that it is unclear as to what level of cooperation with CBP's information request is acceptable and what level is insufficient, making the regulatory language unfair.

Response: CBP disagrees with the commenter's statement. CBP ensures that the request procedure is transparent to those parties involved in an EAPA investigation by providing all documents on the administrative record. Further, the parties to the investigation, which include the party filing the allegation and the importer, and the foreign producer or exporter of the covered merchandise, are given sufficient time during an EAPA investigation to gather and provide the requested information to CBP. CBP then carefully evaluates the information on a case-by-case basis to determine whether the party cooperated and complied with CBP's request to the best of its ability and takes into account the specific circumstances surrounding each request before deciding whether adverse inferences are appropriate. The regulations also provide for due process in the form of administrative review and judicial review in cases where the importer is of the opinion that the ''to the best of its ability'' standard was met, but CBP nonetheless applied adverse inferences.

B. Initiation of Investigations (Subpart B)

Subpart B (Initiation of Investigations) deals with the initiation of an investigation, such as the filing of an allegation by an interested party or a request for investigation (referral) by another Federal agency, specifies the date of receipt of an allegation, and discusses the consolidation of allegations, as well as referrals to the Department of Commerce (Commerce) to determine whether merchandise described in the allegation is properly within the scope of an AD/CVD order. Commenters submitted questions on the availability of technical assistance and guidance for small businesses and requested additional methods for withdrawal of allegations and requests from Federal agencies. CBP also received several comments surrounding the process of the consolidation of allegations, and CBP's notification procedures. Lastly, commenters asked for additional information about the timing of CBP's scope referral and Commerce's scope proceeding.

Comment: While one commenter supported the requirement in § 165.11(e) for CBP to provide technical assistance and guidance to small businesses, another commenter was concerned with the provision and stated that CBP should not assist small businesses with the preparation and filing of an allegation. The commenter argued that it should be the filing party's responsibility to meet the filing requirements in order to maintain a fair and transparent investigation.

Response: CBP appreciates the comments. Small businesses are entitled to technical assistance, upon request, from CBP if they satisfy the applicable standards set forth in 15 U.S.C. 632 and 13 CFR part 121. CBP notes that section 411(b)(4)(E) of TFTEA requires the provision of technical assistance and advice to eligible small businesses to prepare and submit an allegation. Furthermore, CBP encourages filings by small and medium businesses and continues to provide technical assistance to those businesses upon request.

Comment: One commenter suggested that CBP include a paragraph (f) in § 165.11, limiting communications with CBP to the parties to the investigation. The commenter asked CBP not to publicize the filing of an allegation or accept or respond to any unsolicited oral communication concerning the allegation or investigation from any person other than from a party to the investigation prior to a determination to not initiate an investigation under § 165.15, or a determination as to evasion under § 165.27(a).

Response: CBP disagrees with the commenter's request to include a paragraph (f) in § 165.11 that would limit communications to the parties to the investigation. CBP believes that the notice of initiation of an investigation, which includes facts and evidence from the submitted allegation, is the best time at which to notify all parties to the investigation, as well as the public, in an effort to make the EAPA proceedings as transparent as possible. If, and when, unsolicited information is submitted to CBP regarding an allegation or investigation, CBP has the discretion to decide, throughout the investigation, if it will place this information on the administrative record or not (including prior to the notice of initiation of an investigation).

Comment: Multiple commenters disagreed with the term ''date of receipt'' in § 165.12(a). The commenters argued that the overall intent of TFTEA is for CBP to proceed swiftly and adhere to strict deadlines, but claimed that the way the interim regulation is written, the date of receipt is entirely within CBP's control, and thus the regulatory language runs counter to the statutory language that states unambiguously that not later than 15 business days after receiving an allegation, CBP shall initiate an investigation. *See* 19 U.S.C. 1517(b)(1). For the same reasons, additional commenters requested that CBP specify the exact number of days within which CBP is required to issue

an acknowledgment of receipt, one of the suggestions being that the deadline is no later than two days after receipt of the allegation.

Response: CBP disagrees with the commenters' request to redefine the term ''date of receipt'' and specify an exact number of days within which CBP issues an acknowledgment of receipt of an allegation. It is clearly stated in the regulation that an allegation is received when CBP acknowledges a properly filed allegation. An allegation cannot be considered to be received until it is properly filed, *i.e.,* the allegation contains all the information and certifications required pursuant to § 165.11. The statute and interim regulations provide CBP the flexibility to properly examine the allegations as resources allow. Initiating an investigation within 15 business days of an allegation being in CBP's possession could lead to an inefficient use of CBP's resources, as poorly filed allegations or incomplete allegations would cause CBP to perform work that should have been done by the alleger.

Comment: One commenter called attention to a scenario that could arise in the context of an interaction between § 165.12 (date of receipt of an allegation) and § 165.2 (entries dating back to one year before receipt of an allegation). The commenter stated that, depending on the time of receipt of the allegation by CBP pursuant to § 165.12, the time period for investigating entries made within one year prior to CBP's receipt of the allegation could become shorter unintentionally if CBP takes time to acknowledge the receipt of the allegation, and thus entries of allegedly covered merchandise could potentially end up outside of the one-year period from the date of receipt, as specified in § 165.2.

Response: CBP disagrees that the regulation should be changed to cover entries made within one year before the original date of submission of the allegation, instead of the date of receipt of the allegation. CBP acknowledges that the scenario described above could make it difficult in certain instances to cover the alleged actions in the time frame set forth in § 165.2. However, as mentioned above in response to another comment, it is in CBP's discretion to investigate other entries of covered merchandise, *i.e.,* entries outside of the one-year time frame, if the circumstances warrant.

Comment: One commenter stated that CBP should amend § 165.12(b) to provide for consequences for withdrawing an allegation, such as prohibiting re-submission of a new allegation for a specified time period after withdrawal. In addition, the commenter stated that there should be consequences for providing false allegations.

Response: CBP disagrees with the commenter that consequences should be tied to a withdrawal of an allegation. CBP further notes that consequences for making false statements in EAPA investigations are provided for in § 165.5(b)(3).

Comment: One commenter asked CBP to amend § 165.12(b) and § 165.14(a) to allow for the withdrawal of a submission through any other method approved or designated by CBP, in addition to email, to make these provisions consistent with other provisions, such as § 165.5(b)(1) and § 165.11(a).

Response: CBP agrees with the commenter. One of the new functionalities of the EAPA Portal is the ability for parties to submit withdrawal requests through this system as a method approved or designated by CBP. Accordingly, CBP has amended the language in §§ 165.12(b) and 165.14(a) to allow for additional methods for the submission of withdrawal requests. As mentioned above, this functionality will be available in the EAPA Portal upon effectiveness of this final rule.

Comment: One commenter asked CBP to consolidate allegations prior to the initiation of an investigation, noting that the ''reasonably suggests'' standard in § 165.15(b)(2) is met in a case where multiple importers are contributing to an evasion scheme, but each importer-specific allegation may present, on its own, insufficient information to satisfy the initiation standard. The commenter stated that it would be imperative under those circumstances for CBP to consider and consolidate the multiple allegations to meet the ''reasonably suggests'' standard.

Response: Under § 165.13(a), CBP has the authority to consolidate allegations at any point prior to the issuance of a determination (even prior to the initiation of an investigation) and may do so if certain criteria set forth in § 165.13(b) are met.

Comment: One commenter suggested that CBP modify its regulations to grant the parties to the investigation an opportunity to comment on (or object to) consolidation prior to any decision to consolidate. The commenter argued that such a regulatory change would promote engagement with the parties as to why or why not consolidation would be beneficial or burdensome.

Response: CBP disagrees with the commenter's suggestion to modify the regulatory language. The interim regulations already include the ability for comments to be placed on the administrative record regarding consolidation of allegations once interim measures are announced. Pursuant to § 165.23(c), the parties to the investigation have the opportunity to submit factual information up to day 200 of the investigation. Relatedly, CBP has revised the regulatory language in § 165.23(c)(2) providing CBP with the discretion to officially extend the 200-day deadline for providing factual information, as discussed in more detail in section III below.

Comment: One commenter wrote that a consolidation of allegations does not seem appropriate in evasion investigations because only the importer is submitting the import declaration as to whether merchandise is covered by an AD/CVD order, and only the importer may evade an AD/CVD order. The commenter opined that a mere similarity of covered merchandise should not be the basis for a claim of evasion and, thus, not a basis for consolidation.

Response: CBP disagrees with the commenter. Each EAPA allegation regarding an importer stands on its own merit. CBP judiciously uses the consolidation ability and bases consolidation on various criteria, such as those listed in § 165.13(b)(1)–(4). When allegations against importers are consolidated at the interim measures point, it is because there is reasonable suspicion that all the importers are engaged in evasion.

Comment: Two commenters stated that CBP should allow for the filing of one allegation against multiple importers if they are involved together in a duty evasion scheme. Given that the entities involved in an evasion may use a host of different importers of record as alter egos by which to improperly enter goods, limiting an allegation to a single importer would decrease efficiency for filers of allegations and CBP, and increase the burden to determine which importer was involved in an evasion. One of the commenters added that if confidentiality is a concern, CBP should implement an administrative protective order (APO) process in such cases.

Response: CBP disagrees with both commenters. Every EAPA allegation stands on its own. Allowing one allegation against multiple importers would be problematic if the alleger did not correctly name one of the importers or provided insufficient facts against one of the importers. In that instance, the alleger would have to withdraw the allegation against all the importers in order to re-submit an allegation against only one or more importers. In addition, since the statutory language in 19 U.S.C.

1517(b)(2) (''. . . allegation that *a person* has entered covered merchandise . . .'') (emphasis added) is written in singular form, allowing allegations against more than one importer would be inconsistent with the current statutory language and would require a statutory change. Nonetheless, CBP may consolidate allegations under certain circumstances. However, as explained in more detail below, CBP will provide for the use of APOs as part of the EAPA process going forward.

Comment: Multiple commenters voiced a concern regarding the 95-day period for notification of CBP's decision to initiate an investigation pursuant to § 165.15(d)(1). The commenters argued that such a lengthy delay in notifying the alleged evader about the initiation of an investigation could impede an importer's due process rights by significantly limiting the time to prepare a defense. It could deprive the alleged evader of an opportunity to provide information or arguments until after the interim measures are in effect. For similar reasons, another commenter asked for immediate publication of notice of the initiation of an investigation to enhance transparency.

Response: CBP disagrees with the commenters' suggestion that CBP issue a notice of initiation of an investigation earlier than 95 calendar days after a decision to initiate has been made. CBP needs adequate time to investigate the alleged evader's actions, before notifying the parties to the investigation about the initiation of an investigation. Issuing a notice of initiation early would allow the alleged evader to change its tactics in order to disrupt CBP's investigatory efforts. Pursuant to 19 U.S.C. 1517(b)(1), CBP must make a decision as to whether the allegation reasonably suggests evasion within 15 business days of receiving a properly filed allegation in order to initiate an investigation. No later than 90 calendar days after commencing an investigation, CBP must make a decision as to whether there is reasonable suspicion that covered merchandise has been entered into the U.S. customs territory through evasion. If CBP finds reasonable suspicion, CBP issues a combined notice of initiation of investigation and interim measures within five business days of that decision. Alternatively, if no interim measures are taken, CBP may issue a notice of initiation of investigation only, by day 95 of the case. Thus, for ease of administrability of this regulation and others in part 165 that provide for the notification of decisions five business days after a decision has been made, CBP has revised § 165.15(d)(1). The revised regulation states in the first sentence that CBP will issue a notice of its decision to initiate an investigation to all parties to the investigation no later than five business days after day 90 of the investigation, removing the current reference to the 95-calendar-day period. For consistency purposes, CBP also has changed the second sentence in paragraph (d)(1) to state that in case of interim measures, a notice to all parties to the investigation will occur no later than five business days after day 90 of the investigation.

Furthermore, this change will make the regulatory language consistent with the statutory language, which only mentions a 90-day timeline, and will also create uniformity for the processes for initiating and notifying of an investigation, and for taking and notifying of interim measures. Notwithstanding those time frames, CBP may make a decision earlier than 90 days if it is ready to do so after a thorough investigation and notify the parties to the investigation within five business days of that decision. Additionally, when revising § 165.15(d)(1), CBP has replaced the word ''notification'' in the existing regulation with ''notice'' since CBP serves an actual notice of initiation of an investigation on the parties to the investigation, as opposed to notification of the parties in some other fashion.

Comment: One commenter asked CBP to amend § 165.15(d) to provide that CBP notify not only the interested party who filed the allegation, but also the importer alleged to have engaged in evasion in a case where CBP determines to not initiate an investigation.

Response: CBP does not agree with the commenter to amend the regulation. In order to discourage any potential retaliatory actions by the alleged evader against the alleging party, CBP will not notify the alleged evader in case of a decision to not initiate an investigation. If CBP determines to not initiate an investigation due to insufficient evidence that there is a likelihood of evasion, CBP does not see a need to make the alleged evader's name public in a notice to not initiate an investigation.

Comment: One commenter asked that CBP provide for the opportunity to request an administrative review of a decision to not initiate an investigation so that the Commissioner of CBP may assess whether the decision was rendered in accordance with the legislative intent of a functioning mechanism for potential duty evasion and the plain language of the EAPA.

Response: Under the plain language of paragraph (f) of 19 U.S.C. 1517, administrative review may be requested for determinations made under 19 U.S.C. 1517(c). No provision in the statute authorizes CBP to conduct an administrative review of a decision to not initiate an investigation, which is not a determination under 19 U.S.C. 1517(c). Furthermore, CBP provides technical assistance to allegers on strengthening their allegations as a matter of practice and allegers have the opportunity to refile insufficient allegations as more information becomes available which would show that potential evasion is occurring.

Comment: One commenter recommended that the regulations be revised to create a single time frame for the notification of decisions to initiate and to not initiate an investigation and suggested both time frames be within 30 days of receipt of an allegation.

Response: CBP disagrees with the commenter's recommendation for the creation of a single time frame for the notification of CBP's decisions to initiate and to not initiate. Due to the different nature of these decisions, it is not practical to have one single timeframe for CBP to follow. There are different evidentiary standards and different timing requirements attached to the two types of decisions. As mentioned above, CBP has 15 business days to determine whether to initiate or to not initiate an investigation under the ''reasonably suggests'' standard. If CBP determines that it will not initiate an investigation, it will notify the alleger within five business days of that decision pursuant to § 165.15(d). If CBP determines within 15 business days of a properly filed allegation that it will initiate an investigation, CBP usually takes 90 calendar days to determine whether ''reasonable suspicion'' exists before making a decision to implement interim measures (or not) and informing the alleger and importer in case of a decision to implement interim measures. Thus, a notification 30 days after receipt of an allegation, as suggested by the commenter, is generally too short a time frame for CBP to examine all the facts and both determine whether to initiate an investigation and whether there is reasonable suspicion that evasion is occurring.

Comment: One commenter asked CBP to specify how CBP will notify of its decision to initiate, and asked CBP to require parties making allegations to provide certain information, such as the name of a contact person, mailing and email address of the importer alleged to have evaded, the foreign producer or exporter of covered merchandise, and the government of the country from

which the covered merchandise was exported.

Response: CBP has been providing notices of initiation of an investigation to the parties to the investigation pursuant to § 165.15(d)(1) via email. With the implementation of the EAPA Portal, CBP notifies the parties to the investigation through the system via an email to the alleging party and the alleged evader. In addition, CBP publishes public versions of the notices of initiation of an investigation on its website. Further, to respond to the second part of the comment, CBP already requires name and address for importers; any additional specific contact information would be too burdensome for allegers to include in an allegation, as not all the contact information the commenter listed above is relevant, and, in some instances, it is already publicly available. CBP believes that requiring this additional information would hinder the submission of allegations, without benefit to the EAPA investigation process.

Comment: One commenter stated that CBP should add language that would authorize CBP to self-initiate cases where the criteria in § 165.15(b) are met.

Response: CBP disagrees with the commenter. An amendment of § 165.15(b) would require a statutory change, as 19 U.S.C. 1517(b)(1) and (b)(3) allow for the initiation of an investigation pursuant to the submission of an allegation by an interested party or a request by another Federal agency, but not self-initiation by CBP.

Comment: One commenter stated that the ''reasonably suggests'' standard in § 165.15(b)(2) burdens domestic producers having to prove evasion at the outset in order to have an investigation initiated, whereas the statute only asks for information reasonably available to the party who filed the allegation. *See* 19 U.S.C. 1517(b)(2)(B).

Response: CBP disagrees with the commenter. Pursuant to 19 U.S.C. 1517(b)(2)(B), the allegation must be accompanied by information reasonably available to the party who filed the allegation. However, the threshold for initiating an investigation is that the information provided by the alleger reasonably suggests that evasion occurred, pursuant to 19 U.S.C. 1517(b)(1), which is the same standard as in § 165.15(b)(2). The regulatory language does not unduly burden the alleger by imposing a stricter standard. Moreover, CBP evaluates on a case-by-case basis the merits of each allegation and decides if the ''reasonably suggests'' standard for initiation of an investigation is met.

Comment: One commenter suggested that CBP periodically publish examples of information that was deemed reasonably available to the interested party and sufficient to support an allegation in prior investigations, as well as examples of information sufficient to meet the initiation standard.

Response: CBP currently informs the public through outreach to the industry in the form of presentations on EAPA and provides technical assistance and guidance when allegations are filed. In addition, as mentioned above, CBP publishes public versions of notices of initiation of an investigation on *CBP.gov,* providing examples of information that meets the initiation standard.

Comment: One commenter stated that CBP should urge Commerce to make public the procedures it intends to use in case of a covered merchandise referral and include provisions to allow interested parties to file comments.

Response: CBP disagrees with the commenter. Commerce decides how to best respond to covered merchandise referrals in EAPA investigations, according to its authority and current practices. Moreover, the referral process has been working well between the two agencies and CBP does not see a need for a change.

Comment: One commenter supported the requirement in § 165.16 that CBP refer a scope issue to Commerce at any point after receipt of the allegation, whereas a second commenter stated that CBP should, where possible, wait until after the issuance of interim measures to request a covered merchandise determination from Commerce. The second commenter argued that if CBP requested a covered merchandise determination prior to interim measures, then the covered merchandise referral might be the first time that an importer or other party learned about the evasion proceedings, which could undermine CBP's law enforcement interest to quickly investigate the allegations and gather information prior to issuing interim measures. In addition, the second commenter asked CBP to encourage Commerce to act expeditiously when processing a covered merchandise referral.

Response: CBP appreciates the comments. CBP decides on a case-by-case basis whether there is a need to refer scope issues to Commerce. According to § 165.16(a), CBP may refer the issue to Commerce for Commerce to determine whether imported merchandise constitutes covered merchandise, at any point after receiving the allegation. The statute (19 U.S.C. 1517(b)(4)) does not limit CBP's ability to refer a scope matter to Commerce within a certain time frame but allows CBP to make this decision depending on the circumstances of the specific investigation. With regard to the second part of the last comment, CBP has no jurisdiction over Commerce's authority to set timelines, and no influence over another agency's internal processes.

Comment: One commenter asked that CBP modify the interim regulations to further explain Commerce's covered merchandise proceeding, clarify whether or not interested parties would be able to participate in that proceeding, and whether Commerce's scope determination is appealable.

Response: Commerce processes covered merchandise referrals and determinations according to its own statutory and regulatory authority and CBP cannot amend CBP's regulations to discuss or clarify Commerce's authority and procedures. Nor is CBP in a position to opine on judicial review related to Commerce proceedings. We note, however, that Commerce has promulgated regulations to address covered merchandise referrals from CBP, at 19 CFR 351.227.

Comment: One commenter asked that CBP add a definition in § 165.16(c) for the word ''promptly.'' The commenter also suggested that CBP make a referral to Commerce within 30 days of initiation of the investigation, and CBP provide notice of the referral within five days of the referral.

Response: CBP disagrees with the commenter's request to add a definition for the word ''promptly.'' CBP makes determinations regarding covered merchandise referrals on a case-by-case basis and refers scope issues to Commerce as appropriate. As stated above, CBP may refer to Commerce at any point after receipt of an allegation. Further, CBP notifies the parties to the investigation as to when CBP sends the covered merchandise referral to Commerce.

Comment: One commenter argued that CBP should provide for a mechanism for an interested party to seek relief when CBP improperly refuses to refer a scope issue to Commerce and for situations where CBP improperly suspends liquidation of entries when the scope issue is being disputed.

Response: CBP disagrees with the commenter's argument. CBP works with the appropriate internal subject matter experts during an EAPA investigation and, in addition, works with the Customs Liaison Unit at Commerce, and

refers cases to Commerce regarding the scope of an AD/CVD order when appropriate. The covered merchandise referral to Commerce pursuant to 19 U.S.C. 1517(b)(4) is a specific authority for CBP to use in EAPA investigations, as needed, and should remain within CBP's discretion. Apart from CBP's authority to refer issues to Commerce for a covered merchandise determination, an interested party also has the ability to seek resolution of a scope issue before Commerce pursuant to Commerce's regulations found at 19 CFR 351.225 and 19 CFR 351.227. CBP does not believe that an additional mechanism is needed in this rulemaking. With regard to the second part of the comment, CBP does not believe that a process is needed for a situation where the importer alleges that CBP improperly suspended liquidation of entries when the scope was being disputed. If CBP determines that there is reasonable suspicion that the importer entered covered merchandise into the customs territory of the United States, TRLED will instruct the Center to suspend liquidation of entries of such covered merchandise that entered on or after the date of initiation of the investigation or extend the period for liquidating each unliquidated entry of such covered merchandise that entered before the date of the initiation of the investigation, and take other measures necessary to protect the revenue. CBP needs to conclude its investigation to issue a determination as to evasion, and does not overturn interim measures, such as the suspension of liquidation or the extension of the liquidation period, until a determination has been made.

Investigation Procedures (Subpart C)

Subpart C (Investigation Procedures) includes provisions setting forth the EAPA investigation procedures, such as the maintenance of an administrative record, the time period provided for an investigation and the deadline for making a determination, the types and requirements for the submission of factual information, and the issuance of interim measures. This subpart also describes CBP's authority to conduct verifications of information, deals with the submission of written arguments to CBP and responses to written arguments, and finally sets forth the process for the issuance of a determination as to evasion and the assessment of duties and other actions in case of an affirmative determination. Commenters submitted questions regarding public access to the administrative record, questions surrounding the submission of factual information, and the interim measures process, as well as the verification process.

Comment: One commenter stated that it is unclear from the regulations how and to what extent parties to the investigation would be able to access public information during the course of the investigation or administrative review. The commenter asked that CBP amend the regulations to include a provision that sets forth where CBP would maintain an up-to-date public administrative record, how CBP would guarantee access, and when and how CBP would share public information.

Response: The EAPA Portal provides the parties to the investigation with access to the public documents and public versions of documents relating to the EAPA proceeding and allows the parties to the investigation to view the public administrative record. In addition, CBP publishes public versions of notices of initiation of an investigation, notices of initiation of an investigation and interim measures, covered merchandise referrals, and determinations as to evasion on its website, in a timely manner. Finally, CBP appreciates the opportunity to announce that CBP has started publishing public versions of final administrative review determinations.[3] CBP has uploaded earlier public versions of final administrative review determinations to its website.

Comment: While one commenter supported the opportunity for parties to the investigation to submit factual information pursuant to § 165.23(b), another commenter asked CBP to clarify in § 165.23(a) that CBP may request information from any party who has relevant information.

Response: CBP appreciates the comments. However, CBP disagrees with the second commenter that a regulatory change is needed to clarify that CBP may request information from any party who has relevant information. The universe of persons from whom CBP may request information pursuant to § 165.23(a) is broad, and CBP does not believe that it needs to be specifically defined.

Comment: One commenter stated that it would be useful for the purpose of identifying an importer, especially in situations where importers are incorporated under multiple different names, or when several related companies act as importers of record through an agent, that CBP include in the scope of an EAPA investigation activities engaged in by companies related to an identified importer, which support the allegation.

Response: CBP disagrees with the commenter's suggestion. Although an alleger is free to include information about the activities of a company related to an identified importer in its allegation, the statutory language does not require the inclusion of such information. Furthermore, such a requirement would create an additional barrier that may inhibit the submission of some legitimate allegations.

Comment: One commenter supported the establishment of a service list for purposes of serving other parties with public versions of documents, and asked CBP to amend the regulations to set forth the requirements for the maintenance of such a list.

Response: CBP does not agree with the commenter's request to add a requirement for maintenance of a service list in the regulations. CBP currently releases public versions of documents to the parties to the investigation, which CBP believes is sufficient. Public documents and public versions of documents are also available to the parties to the investigation in the EAPA Portal.

Comment: Multiple commenters asked CBP to modify its regulations so that parties can submit confidential documents via a secure electronic filing system, as opposed to email, and allow attorneys and other interested parties to easily monitor the ongoing investigation. One commenter also asked CBP to provide for the hand delivery of documents if documents contain confidential information, or delivery by mail if the document to be submitted exceeds a certain size limit.

Response: The EAPA Portal allows parties to submit confidential documents, and the parties to the investigation, as well as their attorneys, are able to monitor the status of an EAPA proceeding. Further, CBP already allows for hand delivery on a case-by-case basis, in instances of voluminous submissions or the submission of confidential documents. A party who wishes to hand-deliver documents must file a request with TRLED and provide a reason why the documents cannot be filed electronically. The regulation does not need to be amended as the option of hand delivery is already included in § 165.5(b)(1) as a method approved or designated by CBP. Regarding the last

[3] The final administrative review determinations may be found online at *https://www.cbp.gov/trade/trade-enforcement/tftea/eapa* by clicking on the field titled ''Request for Administrative Review,'' and then on the blue ''Final Administrative Determinations'' button. The published determinations may also be found online at *https://www.cbp.gov/trade/trade-enforcement/tftea/eapa/requests-administrative-review* by clicking on the field titled ''Final Administrative Determination,'' or on the blue ''Final Administrative Determinations'' button.

comment, delivery by mail is not allowed, but if there are size limitation issues with the EAPA Portal, parties may contact the EAPA Investigations Branch at *eapallegations@cbp.dhs.gov.*

Comment: One commenter requested that CBP add a provision in the regulations to allow for the filing of a ''Bracketing Not Final'' version of a submission first, followed by the final, public version the next business day. The commenter believes that this additional time is necessary to review any business confidential information to make sure that the public version is correct. The commenter argued that this change would make CBP's regulations consistent with those of Commerce, the U.S. International Trade Commission (ITC), and the CIT.

Response: CBP disagrees with the commenter's request to allow for the filing of a ''Bracketing Not Final'' version first, followed by a final, public version the next business day. Section 165.4(a)(2) states that the public version should be filed on the same date as the business confidential version and gives CBP the opportunity to reject a public version, if needed. Simultaneous filing ensures that the other parties to the investigation timely receive documents, since only public versions are provided to other parties in an EAPA investigation. Commerce, ITC, and CIT procedures differ in this regard, in that confidential versions are provided to other parties under protective orders.

Comment: One commenter asked CBP to modify § 165.23(c)(1) to set a deadline for service of the public version of a submission of factual information, which currently is missing in the regulations.

Response: CBP disagrees with the commenter. Section 165.23, first sentence, refers to §§ 165.4 and 165.5 with regard to the submission requirements. Specifically, § 165.4(a)(2) addresses the requirement to submit a public version on the same date as the business confidential version.

Comment: One commenter asked CBP to clarify in § 165.23(c)(2) whether the service requirement applies to the submission of all factual information, or only to factual information submitted after a certain point in the investigation. The commenter stated that pursuant to § 165.23(c)(2), parties submitting factual information are required to serve on parties to the investigation a public version of the submission. The commenter went on to say that if an alleging party submitted factual information after the initial allegation, but prior to the issuance of interim measures, it would be unclear whether service of that information on other parties would interfere with CBP's enforcement efforts in case CBP had not yet notified certain parties of the investigation.

Response: CBP disagrees with the commenter's request to modify § 165.23(c)(2). The service requirements in § 165.4 apply throughout the investigation; there is no distinction in the regulation, or in practice, regarding the timing of the submission of factual information. However, CBP wishes to clarify that any documents submitted prior to the notice of initiation of an investigation will be served by TRLED on the parties to the investigation soon after the issuance of the notice, regardless of who submitted those documents. For additional clarity, CBP added a sentence to that effect at the end of § 165.15(e).

Comment: One commenter stated that CBP should adopt a regulation that imposes interim measures if Commerce finds that imported merchandise is covered by an AD/CVD order and that tolls the CBP deadlines for the completion of the investigation. Otherwise, the commenter noted, if Commerce issues a scope determination which is subject to judicial review and CBP's regulations do not toll CBP's administrative deadlines during the pendency of judicial review, it may be the case that an importer is labeled an ''evader'' even though the underlying facts for the scope determination are subject to dispute. The commenter opined that adding a regulation as described above would ensure that importers will not be labeled as duty evaders unless and until all their due process rights have been exhausted.

Response: CBP disagrees with the commenter. CBP considers decisions by various internal stakeholders as well as other government agencies when reaching the decision to take interim measures, but CBP has independent authority to determine if or when to impose interim measures. CBP takes interim measures after careful examination of the facts and information provided, concluding that there is reasonable suspicion that evasion has taken place. Judicial review of a scope determination should not put the EAPA investigation on hold because CBP needs to timely continue its process, as provided in the regulations, to fully investigate the facts relating to the allegation and make a determination as to evasion. CBP notes that Congress, through the statutory timelines set forth in EAPA, made clear that it intended prompt action on the part of CBP.

Comment: One commenter requested that CBP amend § 165.24(c) to state that CBP will share the public administrative record with Commerce upon issuing interim measures. The commenter argued that the connection between Commerce's administration and enforcement of AD/CVD orders and CBP's efforts to combat evasion under EAPA necessitates that the agencies share information and work together to maximize enforcement.

Response: CBP does not see a need to amend the regulations so CBP may share the administrative record with Commerce after the issuance of interim measures. CBP regularly shares information with Commerce, based on the circumstances of the case and in accordance with law.

Comment: One commenter asked CBP to clarify in § 165.25 that the verification process takes place sometime between initiation of the investigation and the 200th calendar day after the initiation, that a verification agenda is included, and modify the regulations to provide for a verification report that CBP will place on the administrative record.

Response: CBP does not agree with the commenter that the verification process must be completed by the 200th calendar day after initiation of an investigation. Rather, verification generally occurs after all new factual information has been submitted to the administrative record. The deadline for voluntary submission of new factual information is established in § 165.23. To clarify that CBP may conduct verifications before and after the deadline for voluntary submission of factual information, CBP has revised the language in § 165.25(b). In addition, CBP added a sentence in paragraph (b) to confirm that the purpose of the verification is to verify the accuracy of the information already placed on the administrative record. Regarding the commenter's second request, CBP already provides a verification agenda to the parties to the investigation and does not believe that it needs to be specifically stated in the regulation.

To respond to the commenter's request regarding the verification report, CBP added a new paragraph (c) stating that CBP will place a report about the verification, *i.e.,* the verification report, on the administrative record. CBP will also require the party that underwent the verification to place verification exhibits, which will generally contain information compiled and verified by CBP at CBP's discretion during the verification, on the administrative record. In accordance with § 165.4, CBP and the party that underwent the verification will provide public versions of their verification documents, which will be served on all parties to the

investigation. CBP will not accept voluntary submissions of new factual information at the verification after the deadline for such submissions, as referenced in § 165.23. Further, parties to the investigation cannot submit rebuttal information to either CBP's verification report or the verification exhibits. Parties to the investigation, however, may submit to CBP written arguments in relation to the verification report and/or its exhibits in accordance with § 165.26.

CBP also added a new paragraph (d) stating that if CBP determines that information discovered during a verification is relevant to the investigation and constitutes new factual information, CBP will place it on the administrative record separately, in accordance with § 165.23, and allow the parties to the investigation to submit rebuttal information.

Comment: One commenter expressed support of § 165.26 but was concerned that the 50-page limit in paragraph (d) may be too short in some cases. The commenter suggested that CBP explicitly state in the regulation that it would increase the page limitation upon request when good cause is shown.

Response: CBP disagrees with the commenter's suggestion and supports the regulation as currently written. Written arguments are a summary of record evidence and new information is not permitted. CBP believes that 50 pages is a reasonable limit and does not see a need to provide for exceptions in the regulation.

Comment: One commenter stated that CBP should clarify in § 165.26(c) that CBP may request written arguments on any issue from any interested party.

Response: CBP believes that § 165.26(c) as currently written is properly limited to the parties to the investigation. However, to make the terminology in § 165.26(c) clearer, CBP changed the regulatory language from ''any party'' to the investigation to ''the parties'' to the investigation.

Comment: One commenter argued that CBP should make it clear in § 165.27(a) that a determination must be based on substantial evidence on the record, and add a reference to the administrative record, as defined in § 165.21.

Response: CBP does not see a need to add a clarification in the regulation. Section 165.27(a) already contains language that a determination is based on substantial evidence as to whether covered merchandise was entered into the U.S. customs territory through evasion. In addition, § 165.21(a) states that CBP maintains an administrative record for purposes of making a determination as to evasion under § 165.27. When both regulations are read together, it is clearly stated that CBP's determination as to evasion is based on substantial evidence on the administrative record. In current practice, CBP states in its affirmative determinations that CBP reviewed the administrative record and found that it contained substantial evidence of evasion.

Comment: One commenter suggested that CBP add a sentence to § 165.27(b) to state that CBP will provide parties to the investigation with a public version of the administrative record no later than five business days after making a determination as to evasion, the same date that CBP sends the parties to the investigation a summary of the determination limited to publicly available information. This suggested language would mirror the language in § 165.24(c) for interim measures, which includes a notification of the decision to the parties of the investigation, along with a public version of the administrative record on the same date.

Another commenter suggested that § 165.27(b) be amended to provide a detailed and meaningful public explanation as to what should be covered by the summary of CBP's determination as to evasion since that summary would serve as the primary basis for a party's decision whether to request an administrative review and subsequent judicial review.

Response: With regard to the first comment, once parties to the investigation are notified of an investigation, and then throughout the remainder of the investigation, the administrative record is made available in the EAPA Portal. CBP does not agree that the regulation needs to be amended to that effect. Pursuant to § 165.27(b), CBP will provide a summary of the determination as to evasion, limited to publicly available information, to the parties to the investigation. As part of the public version of the determination as to evasion, CBP includes a short summary of the redacted information in brackets that was deemed business confidential information. Additionally, as discussed in more detail below, CBP will provide for an APO process so parties to the investigation may access business confidential information. Thus, an amendment to § 165.27(b) as suggested by the second commenter is not necessary.

Comment: One commenter stated that § 165.27 does not appear to contemplate the publication of a determination as to evasion, and a summary is available only to the parties to the investigation. The commenter suggested that CBP add a new paragraph (c) to § 165.27 stating that no later than 90 days after making a determination as to evasion, CBP would publish a summary of the determination limited to publicly available information in the *Customs Bulletin* or make the determination otherwise available for public inspection.

Response: CBP disagrees with the commenter's suggestion to amend § 165.27. In addition to informing the parties to the investigation about the determination electronically, CBP has been publishing a public version of the determination on its website. The public version of a determination is also available to the parties to the investigation in the EAPA Portal.

Comment: One commenter stated that a party's right to judicial review, as granted in 19 U.S.C. 1517(g), is restricted by the regulations as the regulations limit a party's right to public information only, and thereby deprive the party of full knowledge of the basis for CBP's determination. It is the commenter's opinion that CBP must provide the parties to the investigation with some level of access to proprietary information in order for CBP to give full effect to the statute.

Response: CBP agrees with the commenter's request to provide access to another party's proprietary information. As discussed in more detail below, CBP will establish an APO process to allow for the release of business confidential information to parties to the investigation.

Administrative Review of Determinations (Subpart D)

Subpart D (Administrative Review of Determinations) specifies the requirements for requesting an administrative review of a determination as to evasion, discusses the submission of responses to the request for administrative review, and describes CBP's authority to request additional information from the parties to the investigation. This subpart also deals with the administrative review standard, the ability to file for judicial review of the final administrative determination, and, finally, potential penalties and other actions that CBP may undertake pursuant to any other relevant laws. CBP received comments regarding the publication of final administrative determinations, the availability of rebuttal information during an administrative review, and questions on the *de novo* review process for administrative reviews.

Comment: One commenter expressed concern with regard to the 30-business-day deadline (§ 165.41(d)) for requesting

an administrative review of a determination as to evasion and asked for clarification in the regulations. The commenter stated that it is unclear whether ''issuance'' in the regulation refers to the date CBP signs the initial determination, the date it is sent to the parties, the date it is received by the parties, or some other date.

Response: CBP appreciates the opportunity to clarify that the date of issuance is the date that the determination is signed by CBP and also electronically transmitted to the parties to the investigation. In a rare case where the determination as to evasion is signed on one day and electronically transmitted the next business day, the date of electronic transmittal is considered the date of issuance.

Comment: One commenter asked for the regulations to be amended to expressly allow for rebuttal information in administrative reviews.

Response: CBP disagrees with the commenter. Under § 165.44, CBP may request additional written information from the parties to the investigation at any time during the administrative review process; however, these requests are narrowly tailored for specific information related to a record that has already been created during the course of the investigation. CBP has a strict 60-business-day review period to issue a determination on the request for administrative review. *See* 19 U.S.C. 1517(f) and 19 CFR 165.41(i). Any rebuttal information from the parties on additional information requested by CBP would reduce the number of days that Regulations and Rulings (RR) has available to conduct a *de novo* review of the record information and issue a final administrative determination. However, should CBP determine that rebuttal information is useful, then § 165.44 permits CBP to request such information.

Comment: One commenter stated that the language in § 165.45 is contradictory because the administrative review process is described to be *de novo* and, at the same time, based on specific facts and circumstances already on the administrative record. It is the commenter's opinion that parties should be able to provide any information they deem appropriate in the administrative review process since it is a *de novo* review.

Response: CBP disagrees with the commenter's request. EAPA requires that an administrative review be rendered within 60 business days (19 U.S.C. 1517(f)), which is in contrast to a much longer time frame (up to 360 calendar days) that CBP has available to render a determination as to evasion. The short deadline for the administrative review makes it impracticable for CBP to accept additional information that parties wish to submit. Rather, the administrative review must be based solely on the facts already on the record, with the exception being if CBP believes that it needs additional information in accordance with § 165.44 to be able to render its decision, as mentioned above. To clarify even further, CBP added the phrase ''in response to a request by CBP'' before ''pursuant to § 165.44'' to emphasize that CBP will only consider additional information if CBP specifically requested that information.

Comment: One commenter asked CBP to add a paragraph in § 165.46 that sets forth that final administrative determinations are published in the *Customs Bulletin* or are otherwise made available for public inspection no later than 90 days after the issuance of the final administrative determination.

Response: CBP disagrees with the commenter's suggestion to amend the regulation as there is no need to include in the regulatory text a requirement for the publication of the final administrative determination. As mentioned in more detail above, CBP has started publishing final administrative determinations, limited to public information, on its website.

Comment: One commenter stated that CBP should clarify that any actions taken apart from the EAPA investigation will not disadvantage False Claims Act (FCA) relators. The commenter stated that § 165.47 expressly states that no action taken under EAPA prevents CBP from assessing penalties of any sort related to such cases or taking action under any other relevant laws and that CBP should extend this recognition to claims brought under the FCA in the final regulations.

Response: CBP disagrees with the commenter's request for clarification of § 165.47. EAPA investigations do not prevent actions by CBP or other government agencies under other authorities, including FCA, and CBP's and other governmental agencies' rights to undertake additional investigations or enforcement actions in cases covered by the EAPA provisions are already established in § 165.47. *See also* 19 U.S.C. 1517(h).

Comment: Multiple commenters stated that a determination as to evasion should not be a protestable decision and asked that CBP clarify in the regulations that the administrative process and judicial review under 19 U.S.C. 1517(f)–(g) are the only avenues by which a party may challenge a determination.

Response: CBP agrees with the commenters that a determination as to evasion in an EAPA investigation is not a protestable decision. Sections 1517(f)–(g) of 19 U.S.C. establish both an administrative and judicial review process for EAPA determinations made by CBP. The administrative and judicial review processes are the exclusive means by which EAPA determinations can be reviewed. However, CBP does not see a need to clarify this in the final regulations at this time.

Other Comments

Comment: Multiple commenters asked that CBP publicly disclose key events, such as the initiation of an investigation, or determination as to evasion, to a wider trade community, either in form of a searchable docket or some other type of publication process for the key documents. The commenters argued that such disclosure would deter future evasion attempts and promote increased compliance by all parties.

Response: CBP already publishes public versions of notices of initiation of an investigation, notices of initiation of an investigation along with interim measures (if CBP takes interim measures after initiating an investigation), covered merchandise referrals, determinations as to evasion, and now final administrative determinations as well, on its website. To further promote transparency of the EAPA process, those decisions are viewable in the EAPA Portal by the parties to the investigation.

Comment: Multiple commenters have urged CBP to create an APO process or similar process in the final regulations, which would allow authorized representatives of interested parties to obtain and review confidential information submitted by other interested parties. While the commenters acknowledge that the statute did not explicitly authorize CBP to create an APO, these commenters note that such specific statutory authorization is not necessary given that Congress has broadly authorized CBP to promulgate regulations necessary to implement the provisions of TFTEA. The commenters claim that the lack of an APO hinders the parties' ability to meaningfully participate in EAPA proceedings in multiple ways. The commenters argue that the parties affected by CBP's decision-making will not have full access to information contained on the administrative record unless and until judicial review is requested. Further, the inability to have access to other parties' business confidential information prevents other parties to the investigation from providing rebuttal information and from

submitting arguments at the administrative level based on a review of the complete information. Finally, the commenters argue that the lack of an APO makes the administrative process more burdensome for CBP, because CBP must respond to irrelevant arguments and evidence submitted by parties, who, without full access to the record, are unable to assess the nature of that record and other parties' claims.

Response: CBP agrees with the commenters that Congress provided CBP with authority to ''prescribe such regulations as may be necessary'' to implement the requirements under the statute. CBP, by regulation, has created an investigation procedure that allows participation by the parties to the investigation. Under § 165.4, any party submitting information to CBP may request confidential treatment for information protectable under 5 U.S.C. 552(b)(4). The party must identify such confidential information by placing it in brackets, marking the first page as confidential, and providing an explanation for requesting confidential treatment. The interested party must also file a public version of the confidential document. Under § 165.4(a)(2), the public version must contain a summary of the confidential information with sufficient detail to permit a reasonable understanding of the substance of the information. If the submitting interested party claims that summarization is not possible, the claim must be accompanied by a full explanation of the reasons supporting that claim. Public summaries that do not meet this requirement will be rejected.

Moreover, in order to allow meaningful participation in the proceedings, and for purposes of transparency, CBP will not accept claims of confidential treatment for the following information: (1) name of the party to the investigation providing the information, its agent filing on its behalf, if any, and email address for communication and service purposes; (2) basis upon which the party making the allegation qualifies as an interested party as defined in § 165.1; (3) name and address of importer against whom the allegation is brought; (4) description of covered merchandise; and (5) applicable AD/CVD orders.

While CBP believes that the above process provides parties to the investigation with a meaningful opportunity to participate in the EAPA investigation, CBP acknowledges that, on July 27, 2023, the U.S. Court of Appeals issued a decision in *Royal Brush Mfg.* v. *United States,* 75 F.4th 1250 (Fed. Cir. 2023), with respect to the issue of a need for an administrative protective order in that case. In light of that precedential decision, CBP is reviewing its procedures with respect to the disclosure of business confidential information during EAPA investigations. As such, CBP has amended § 165.4 and added language in the introductory text of paragraph (a) to state that if the requirements of § 165.4 are satisfied and the information is privileged or confidential in accordance 5 U.S.C. 552(b)(4), CBP will grant business confidential treatment and issue an APO, in compliance with the mandate in *Royal Brush.* Further, CBP added a new paragraph (f), stating that in each investigation where CBP grants a request for business confidential treatment, CBP will issue an APO which will contain terms that allow the representatives of the parties to the investigation to access the business confidential information. CBP will publish guidance to provide additional information on this new APO process, and CBP is also considering whether to initiate a separate rulemaking for purposes of further codifying an APO process. Finally, CBP made several additional changes to § 165.4, unrelated to an APO process, which may be found in section III below.

Comment: Multiple commenters stated that CBP must follow the statutorily mandated deadlines and should clarify in the final regulations that they are mandatory.

Response: CBP abides by all statutory deadlines such as CBP's decision to take interim measures no later than 90 days after initiating an investigation under 19 U.S.C. 1517(e), CBP's determination as to evasion no later than 300 days after initiating an investigation pursuant to section 1517 (c)(1)(A), and the 60-business-day timeline for making a final administrative determination pursuant to section 1517(f)(2). CBP does not believe that a clarification in the final regulations is necessary.

Comment: One commenter stated that CBP should clarify in the final regulations that all *ex parte* communications of substance will be memorialized in the administrative record and public versions of such written memorialization should be promptly disclosed to the other parties to the proceeding.

Response: CBP disagrees with the commenter that the memorialization of *ex parte* communications needs to be specifically outlined in the regulations. Substantive *ex parte* communications are memorialized, and public versions are disclosed to the parties to the investigation as a matter of practice.

Comment: One commenter voiced concerns with regard to section 411(b)(4)(B) of TFTEA, specifically the provision of information on the status of CBP's consideration of an evasion allegation and related decision whether or not to pursue any administrative inquiries or other actions as a result of an allegation to a party or parties who submitted an allegation as to evasion. The commenter stated that this provision appears to authorize CBP to allow the alleging party to request Federal documents, which will likely include business confidential information of the importer. The commenter further argued that this provision disadvantages the importer by giving the alleging party information that the importer cannot review and of which the importer is not aware, making this provision fundamentally unfair.

Response: CBP disagrees with the commenter, who is not interpreting the statute in the way that CBP is administering EAPA. While the alleging party may be aware that CBP is processing an allegation before the alleged evader is, CBP does not share business confidential information of other entities with the alleging party at any stage of the investigation. All parties to the investigation are notified whether or not interim measures are taken once an investigation is ongoing and are allowed to participate in the investigation from that point forward.

Comment: One commenter stated that CBP should prescribe regulations that obligate customs brokers to collect and verify meaningful information regarding companies that approach the broker seeking to act as an importer of record.

Response: CBP thanks the commenter for its contribution; however, this comment is beyond the scope of this EAPA rulemaking.

III. Technical Changes and Clarifications to the Interim Regulations

In addition to carefully considering and responding to the public comments, CBP has reviewed the interim regulations in their totality to assess the effectiveness of the established EAPA process and determine whether any regulations, other than the ones addressed above in response to public comments, should be amended. Pursuant to this review, CBP has made some changes to clarify and update the interim regulations, emphasizing CBP's goal for a clear and transparent process and aligning CBP's current practice with the regulations.

CBP made some changes to § 165.1 by clarifying and updating some of the existing definitions and adding a definition. First, CBP slightly rearranged the sentence of the definition of

''allegation'' in § 165.1 for clarity. Next, in the definition of ''TRLED'' in § 165.1, CBP removed the reference to EAPA and replaced it with a reference to the Trade Facilitation and Trade Enforcement Act of 2015 (TFTEA) as it is a more accurate reference. CBP also added a definition for ''Business day'' in § 165.1, which mirrors the language in 19 CFR 101.1. CBP had received a general comment regarding the treatment of Inauguration Day (January 20 or January 21 if January 20 falls on a Sunday) in the context of calculating deadlines, and CBP wants to take the opportunity to clarify its position on this subject since this legal holiday in the Washington, DC, area occurs every four years. Thus, pursuant to the new definition, and in accordance with 5 U.S.C. 6103(c), Inauguration Day is not considered a business day for purposes of an EAPA investigation.

CBP made several changes to § 165.4, in addition to the changes mentioned above. In paragraph (a), CBP added a sentence at the end of the paragraph to state that all documents and communications that are submitted to CBP after notice of initiation must be served on all parties to the investigation by the submitting entity. For business confidential documents, a public version must be served as well, in accordance with § 165.4(a)(2). This addition is not a change but merely a confirmation of CBP's practice. Further, CBP included language in the introductory sentence in paragraph (b) clarifying that rejected submissions due to failure to meet the requirements of § 165.4(a) will not be placed on the administrative record. The same language regarding the placement on the administrative record was added in § 165.4(b)(3), setting forth the effects of a rejected submission. Finally, CBP added the phrase ''unless the submitting interested party takes any of the actions in paragraph (b)(2) of this section within the timeframe specified in that paragraph'' at the end of the introductory sentence in paragraph (b), referring to the possibility of corrective action pursuant to § 165.4(b)(2) in case of a nonconforming submission.

In addition, CBP added two sentences at the end of paragraph (e), stating that parties who are not already subject to the requirements of § 165.4, such as suppliers or customers, must adhere to the requirements set forth in § 165.4 and § 165.5 when filing submissions. With this change, CBP is clarifying its current expectation that interested parties and other parties who submit information to CBP must follow the same submission requirements. Additionally, § 165.5(b) states that all submissions to CBP must adhere to the requirements in part 165. Thus, the addition of the two sentences in paragraph (e) simply clarifies the requirements set forth in § 165.4 and § 165.5 and the effect of a nonconforming submission.[4]

In § 165.5(b)(2), CBP added language to clarify that the certification requirement, along with other submission requirements in sections 165.4 and 165.5, applies not only to submissions by interested parties, but also to submissions requested by CBP from any other party. Lastly, CBP replaced the reference to ''19 CFR'' with a section symbol in two places in § 165.5(b)(2)(ii) and (iii) to make those references consistent with other references in the regulations.

In addition, CBP added a new paragraph § 165.5(b)(4), titled ''Nonconforming submissions,'' clarifying that CBP will reject submissions that do not meet the requirements of paragraph (b) of this section, and will not consider or place them on the administrative record. In § 165.5(c)(1), CBP added language in the first sentence to clarify that the request for extensions applies not only to regulatory time limits, but also to any deadlines for the submission of information requested by CBP. CBP has allowed for requests for extension of non-regulatory deadlines in prior investigations and takes the opportunity to confirm in the regulation that a party may request an extension of a deadline set by CBP. In addition, CBP added the words ''by the requester'' at the end of the third sentence of paragraph (c)(1) in the definition of an extraordinary circumstance, which is an unexpected event that could not have been prevented even if the requester had taken reasonable measures. In paragraph (c)(2), CBP replaced ''retain it in'' the administrative record with ''place it on'' the administrative record to make the language consistent with other sections that have similar language.

CBP revised the language in the second sentence of § 165.13(c) by replacing the 95-calendar-day reference with regulatory language that reflects CBP's practice of notifying the parties to the investigation within five business days of making formal a decision to initiate an investigation and a decision to consolidate after day 90 of the investigation. This change is similar to the change in § 165.15(d)(1), as explained above. The changes to both § 165.13(c) and § 165.15(d)(1) will create uniformity among the regulations dealing with the timing of notification of decisions that CBP makes throughout the EAPA investigation process. CBP further reorganized the first sentence in § 165.13(d) to read more easily and added a reference to public documents that need to be served on parties to the previously unconsolidated investigation once the parties subject to the consolidation are notified. Both public versions of documents and public documents are placed on the administrative record as part of the EAPA investigation. Lastly, CBP replaced the second and third mentions of the word ''upon'' in the first sentence of § 165.13(d) with ''on'' for clarity.

CBP amended the first sentence of § 165.14(a) to include the words ''but not limited to'' after ''including'' to emphasize that any Federal agency, in addition to Commerce and the ITC, may request an investigation under part 165.

CBP added a phrase to § 165.16(d) to include interim measures under § 165.24, along with the deadline to decide whether to initiate an investigation and the deadline to issue a determination as to evasion under § 165.27, setting forth that the time period for any referral to and determination by Commerce will not be counted toward the deadlines mentioned in this paragraph. The regulation is based on language in 19 U.S.C. 1517(b)(4)(C), which states that the period required for the referral to Commerce and the determination shall not be counted in calculating any deadline under this section, and interim measures are mentioned in paragraph (e) of section 1517 as well.

In §§ 165.22(a) and (d), CBP replaced the phrase ''not later'' with ''no later'' to be consistent with the use of the phrase in other regulations. This technical change does not change the deadlines associated with a determination as to evasion in this section. In paragraph (d), CBP changed the word ''notification'' to ''notice'' in the paragraph heading to better reflect CBP's practice of serving the parties to the investigation with a notice, instead of simply notifying them of an extension of time to make a determination as to evasion. Further, CBP rephrased some of the language in § 165.22(b) to mirror the language in § 165.13(a), and with this final rule, both sections will include the ''date of receipt of the first properly filed allegation'' instead of the ''date on which CBP receives the first of such allegations.''

In § 165.23(b), CBP changed the words ''Any party'' to the investigation at the beginning of the sentence to ''The parties'' to the investigation. This change clarifies CBP's intent as to who may submit additional information and makes the language consistent with the

[4] CBP added § 165.5(b)(4) in this final rule and the addition is explained in further detail below.

term ''parties to the investigation,'' as defined in § 165.1. For ease of reading, CBP reorganized 165.23(c)(2), breaking it out into subparagraph (i) dealing with the requirements associated with the voluntary submission of factual information and subparagraph (ii) detailing the requirements for the submission of rebuttal information to the submitted factual information.

In the newly created paragraph (c)(2)(i), CBP added language to provide CBP with the discretion to extend the deadline for voluntary submission of factual information if CBP determines that circumstances warrant an extension. In many past investigations, CBP was under considerable time constraints to timely review and assess the information gathered during the investigation before making a determination as to evasion. In exceptional cases, CBP had already extended the deadline in § 165.23(c)(2). When the interim regulations were drafted, the timelines stated therein seemed feasible; however, CBP's experience over the past seven years has shown that there are situations where CBP needs additional time to investigate and, therefore, needs to have the discretion to extend the deadline for the voluntary submission of factual information when the circumstances warrant. There may be situations where verifications are difficult to conduct due to travel restrictions or other obstacles, and CBP needs the flexibility to extend the deadline for the voluntary submission of factual information in order to conduct a fulsome investigation. If CBP extends the deadline in § 165.23(c)(2)(i), the parties to the investigation will be notified of the extension and will be given the opportunity to make submissions up to the end of the extended deadline. To make the remaining language in § 165.23 consistent with this change, CBP revised the last sentence of (c)(1) by removing the reference to the 200-day deadline and replacing it with a reference to (c)(2), which sets forth the deadline, including the possibility for CBP to extend the deadline at its discretion. It is important to note that this discretionary extension of the deadline in § 165.23(c)(2)(i) does not go beyond the statutory limit of 360 days (19 U.S.C. 1517(c)(1)) by which CBP is required to make a determination as to evasion.

In addition, in newly created § 165.23(c)(2)(i), CBP replaced the clause ''except rebuttal information as permitted pursuant to the next sentence herein'' with a reference to (c)(2)(ii), pointing to the time frame and requirements for the submission of rebuttal information. Lastly, in the newly created paragraph (c)(2)(ii), CBP removed the phrase ''from the date of service of any factual information,'' keeping only the phrase ''from the date of placement of any new factual information'' because CBP's practice has been to use the date of placement of new factual information on the administrative record as the trigger for the 10-calendar-day period for providing rebuttal information. Removing this phrase does not change the parties' rights to provide rebuttal information and the time frame for submitting rebuttal information.

In § 165.23(d), CBP included language in the second sentence to clarify that CBP intends to place a written summary of an oral discussion between CBP and any party from whom CBP requests factual information on the administrative record once an investigation has been initiated, consistent with CBP's practice. It is important to note that oral discussions between the alleger and CBP regarding flaws in an allegation will not be placed on the administrative record. In addition, CBP switched the order of the words ''confidential'' and ''business'' in the third sentence of paragraph (d) as the proper term is ''business confidential information'' and it was erroneously written in the interim regulations as ''confidential business information.''

In § 165.24, CBP replaced the word ''notification'' in the first sentence of paragraph (c) with ''notice'' as CBP serves an actual notice of the decision to take interim measures. In addition, CBP amended the last sentence of paragraph (c) stating that CBP will provide the public version of the administrative record within 10 business days of issuing a notice of initiation of an investigation. When the interim regulations were drafted, it seemed operationally feasible to provide the public version of the administrative record and the notice of initiation of investigation and interim measures on the same date. However, due to TRLED's heavy workload, it has proven difficult in many cases to provide the entire administrative record, limited to public information, after day 90 of the investigation, on the same day as the notice of initiation of investigation and interim measures, as CBP needs time to prepare the public versions of documents on the administrative record before providing them to the parties to the investigation.

CBP made changes to § 165.26(a)(1) and (b)(1) that are similar to the changes discussed above for § 165.23(c), providing CBP the discretion to extend the deadlines for submitting written arguments and responses to written arguments if the circumstances warrant. The need to extend a deadline under § 165.26(a) has frequently become apparent, usually due to the verification process not being completed in time. The purpose of such an extension is to grant an additional 60 days in those instances to complete the verification, give parties adequate time to present written arguments, and for CBP to make a determination as to evasion. In addition, CBP reorganized paragraph (a)(1) and included language stating that an extension of the 230-calendar-day deadline cannot exceed 300 calendar days after the investigation was initiated, or 360 calendar days after the investigation was initiated (in case of an extension of the deadline for a determination as to evasion pursuant to § 165.22(c)). This change will provide CBP the additional time needed to make a sound decision if circumstances warrant an extension. CBP also reorganized paragraph (b)(1) to include language regarding CBP's discretion to extend the 15-calendar-day deadline if CBP deems it necessary. Further, CBP slightly revised § 165.26(d)(2) to make the language read more easily without changing the substance or meaning of the language.

In § 165.28(c), CBP added the phrase ''in accordance with the instructions received from the Department of Commerce'' at the end of the sentence in order to align the regulatory language with the statutory language in 19 U.S.C. 1517(d)(1)(D) and provide further clarity.

In order to bring the EAPA regulations in line with the statutory language in 19 U.S.C. 1517(c), CBP removed the word ''initial'' before the word ''determination'' throughout §§ 165.41, 165.45 and 165.46. CBP added ''as to evasion'' after ''determination'' in the heading of subpart D, as well as in the section heading for § 165.41 to distinguish a determination as to evasion from a determination that is made during the administrative review. In addition, CBP has removed the last sentence of § 165.41(i) as it is redundant and potentially confusing. The 30-business-day deadline for filing a request for an administrative review is set forth in § 165.41(d).

CBP made three changes in the introductory paragraph of § 165.41(f). First, at the end of the first sentence, CBP added the phrase ''in total (including exhibits but not table of contents or table of authorities),'' which can also be found in § 165.42, in order to make the page limit requirements for a request for administrative review

consistent with the requirements for a response to a request for administrative review. Second, CBP replaced the word ''upon'' with ''on for clarity. And third, CBP added a sentence to clarify that CBP will reject a request for administrative review that does not meet the requirements of paragraph (f) and will not consider it or place it on the administrative record. Further, in § 165.41(h), CBP removed the language ''involving the same importer and merchandise'' as this is not a correct statement as to the consolidation of requests for administrative review. There is no limitation in practice as to the possibility of consolidating separate requests for administrative review that relate to one consolidated investigation, which may include different importers and merchandise.

In addition, CBP added a sentence in § 165.42 to clarify that the original submitter of a request for administrative review is not included as one of the parties who may submit a written response to the filed request for review. It has never been CBP's intent that a party who submitted a request for administrative review be able to respond to its own submission, and CBP wants to confirm this intent in the final regulation. CBP also replaced the word ''upon'' with ''on'' in § 165.42 for clarity.

CBP amended § 165.44 by adding two sentences at the end of the section to clarify that CBP will only accept written submissions of additional information in response to a request by CBP, and that meetings or any other methods of unsolicited submission of additional information during the administrative review are not permitted. Throughout subpart D, only written submissions and additional written information, and no other methods, such as oral discussions as allowed in subpart C, will be accepted. *See* §§ 165.41(f), 165.42, and 165.44.

Lastly, CBP made two minor changes in § 165.46. In paragraph (a), CBP replaced the reference to ''EAPA'' with a reference to ''TFTEA'' as it is more accurate. In addition, CBP replaced the term ''final administrative determination'' in § 165.46(b) with ''administrative review'' to mirror the statutory language used in 19 U.S.C. 1517(f).

IV. Conclusion

Based on the analysis of the comments and further consideration, CBP has decided to adopt as final the interim regulations published in the **Federal Register** on August 22, 2016, as modified by the changes based on public comments, and the technical changes and clarifications discussed above.

V. Statutory and Regulatory Requirements

A. Executive Orders 13563 and 12866

Executive Orders 13563 (Improving Regulation and Regulatory Review) and 12866 (Regulatory Planning and Review), as amended by Executive Order 14094 (Modernizing Regulatory Review), direct agencies to assess the costs and benefits of available regulatory alternatives, and if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility.

The Office of Management and Budget (OMB) has not designated this rule a significant regulatory action under section 3(f) of Executive Order 12866, as amended by Executive Order 14094. Accordingly, OMB has not reviewed it.

This rule has resulted in undiscounted costs to the public of $20,008,985 to file allegations and communicate to CBP during the EAPA investigation process and to file administrative review requests since the IFR was published in 2016. The rule has resulted in $20,542,915 in costs to CBP. Qualitative benefits of this rule include improved enforcement of AD/CVD orders, increased transparency and predictability in the processing of AD/CVD evasion allegations, and increased communication with the public.

1. Purpose of the Rule

As mentioned above, on February 24, 2016, President Obama signed into law the Trade Facilitation and Trade Enforcement Act of 2015, which contains Title IV-Prevention of Evasion of Antidumping and Countervailing Duty Orders (short title ''Enforce and Protect Act of 2015'' or ''EAPA'') (Pub. L. 114–125, 130 Stat. 122, 155, (Feb. 24, 2016) (19 U.S.C. 4301 note)). Section 421 of TFTEA requires that regulations be promulgated where necessary to implement the provisions of EAPA. Previous customs laws did not establish a set of specific formal procedures for parties to submit allegations of antidumping or countervailing duty (AD/CVD) evasion to CBP. EAPA provides CBP with new and additional tools with which to combat the problem of AD/CVD evasion with the establishment of a formal process for investigating allegations of the evasion of AD/CVD orders. On August 22, 2016, CBP published an interim final rule (IFR) in the **Federal Register** (81 FR 56477), which established a transparent process for making allegations, investigating such allegations, and reporting the results of investigations. This process provides access to information for the parties to the investigation, giving CBP the opportunity to conduct improved and more thorough investigations of each allegation and to make informed AD/CVD evasion decisions. This final rule makes permanent the interim regulations, including a change based on the previously published technical correction, changes in light of the public comments received in the comment period, as well as changes based on CBP's own review of the interim regulations and the established investigation process.

AD/CVD duties are an important trade measure that shields domestic companies from unfair trade practices by overseas competitors. In fiscal years 2020 and 2021, CBP assessed approximately $1.8 billion [5] and $2.4 billion [6] in antidumping and countervailing duties, respectively. With so much money at stake, the incentives to circumvent AD/CVD orders imposing these duties are high. The public benefits from having a more formalized and clear AD/CVD evasion allegation process, and such a process gives CBP the information it needs to be more effective with AD/CVD enforcement. Furthermore, this rule fulfills the legal mandate set forth in EAPA to establish a formal AD/CVD evasion allegations process and an investigation program.

Background

The antidumping (AD) law provides relief to domestic industries that have been materially injured or are threatened with material injury by imported merchandise sold in the U.S. market at prices below fair market value. The countervailing duty (CVD) law provides relief to domestic industries that have been materially injured or are threatened with material injury by imported merchandise sold in the U.S. market that has been unfairly subsidized by a foreign government or

[5] Source: CBP. *CBP Trade and Travel Report.* Available at *https://www.cbp.gov/sites/default/files/assets/documents/2021-Feb/CBP-FY2020-Trade-and-Travel-Report.pdf.* Accessed June 15, 2022.

[6] Source: CBP. *CBP Trade and Travel Report.* Available at *https://www.cbp.gov/sites/default/files/assets/documents/2022-Apr/FINAL%20FY2021_%20Trade%20and%20Travel%20Report%20%28508%20Compliant%29%20%28April%202022%29_0.pdf.* Accessed June 15, 2022.

public entity. AD/CVD laws provide for additional import duties to be placed on the dumped or subsidized imports to offset the unfair dumping or subsidization of those imports.

Before the promulgation of interim final regulations, there was not a formal procedure for interested parties and other Federal agencies to submit allegations and evidence of AD/CVD evasion to CBP or a requirement for CBP to undertake a formal investigation in response to allegations of evasion. If an entity wanted to file an AD/CVD grievance against another business it would have had to submit a grievance via CBP's Trade Violation Reporting (TVR) system for general e-Allegations or contact CBP by other means, and a CBP employee would assist it in submitting its allegation. After the alleger provided all the required information, CBP would examine the information and determine whether to initiate an informal inquiry. There was not a formal process in place for CBP to reach out to the entity initiating the allegation to inform it of the results of its grievance and in many cases the alleger never heard back from CBP after the allegation was made. There was also no mechanism for the accused entity to know that it was under an e-Allegation investigation nor opportunity for it to provide information in its defense unless CBP decided to open a formal investigation. AD/CVD grievances submitted via the ''Report Trade Violation'' option on the TVR website are commonly referred to as ''e-Allegations.''

Costs

EAPA provides CBP with a formal process for conducting administrative investigations involving possible evasion of AD/CVD orders. CBP has established a new process under EAPA whereby CBP can formally reach out to the alleger, the alleged evader, and other interested parties with separate and distinct questionnaires in order to acquire information that will be used to determine whether an investigation is warranted and whether evasion is occurring or has occurred.

Parties submitting EAPA allegations do so through the EAPA Portal, which was launched in April 2021. New users are prompted to create an account and provide their name and email address in the account creation process. The creation of an account and submission of an allegation via the EAPA Portal are estimated to take three minutes (0.05 hours) and 12 minutes (0.20 hours) respectively, for a total time burden of 15 minutes (0.25 hours) for a first EAPA allegation by a user. Information provided during account creation is automatically inserted into documents submitted to CBP through the EAPA Portal and reduces the time burden to submit an EAPA allegation by three minutes when compared to the time burden prior to the introduction of the EAPA Portal. Users would also save the three minutes related to account creation for each allegation submitted after the first when compared to the previous method of having to submit the information again directly into the EAPA Portal. Prior to the launching of the EAPA Portal (and its EAPA-dedicated predecessor), EAPA allegations were submitted via a dedicated link on CBP's TVR system to a document for the alleger to complete and documents submitted as part of the investigation were sent via email. The time it takes to enroll in the EAPA Portal is equal to the time saved the first time the EAPA Portal is used. For repeat users, there will be a three-minute time savings, but CBP lacks data to estimate how often this takes place. To the extent the EAPA Portal is used more than once by individual users, there will be a three-minute savings per use. For the purpose of this analysis, CBP assumes the EAPA Portal has no impact on time burdens.

CBP estimates that the submission of an EAPA allegation takes approximately 15 minutes (0.25 hours).[7] The statute requires a CBP employee to advise and provide technical assistance to the alleger in the filing of the EAPA allegation. In practice, this has eliminated the necessity of a follow-up questionnaire to be filled out by the alleger.

The alleged evader may receive a CBP Form 28 (CF–28) (Request for Information) or an Initial Request for Information questionnaire and other interested parties may receive an Initial Request for Information questionnaire. Responding to CBP's request for information via these instruments is optional; however, any party, except, *e.g.,* a foreign government, customer, or supplier, that chooses not to respond could be subject to adverse inferences and the investigation may lead to an unfavorable outcome for that party. The expected time burdens to complete and submit a response to the CF–28 and Initial Request for Information are approximately 60 and 90 hours, respectively.[8] If CBP determines that more information is required to bring an EAPA case to a close, relevant parties will receive a Supplemental Request for Information questionnaire. A Supplemental Request for Information questionnaire is typically issued because a party did not fully answer questions in the CF–28 or Initial Request for Information questionnaire. The Supplemental Request for Information questionnaire is estimated to have a time burden of 60 hours to complete and submit.[9]

To estimate the cost to the industry from filing an EAPA allegation and responding to the subsequent forms, CBP must first determine a value of time for entities who would complete and file the forms. CBP expects that, in most cases, these documents will be completed and filed by an outside attorney due to the complex and specialized nature of international trade law. CBP estimated the cost to companies to hire an outside attorney to be $400 per hour in 2016 [10] and adjusted the wage to $466.38 in 2022 dollars.[11] Each document's time burden is then multiplied by the hourly cost to hire an outside attorney to determine a total cost for each form. As shown in Table 1, the cost to file a single EAPA allegation is monetized by multiplying the time burden (.25 hours) and the hourly attorney costs ($466.38 in 2022 dollars) which results in a cost of $116.60 per filing. The estimated cost to the industry for filing each document is shown in Table 1 along with their corresponding time burdens.

This rule formalized the written argument process with the implementation of timelines for submittal. There is no additional cost to the public as a result of the new formal written argument process as the public already had the ability to submit written

[7] Source: U.S. Customs and Border Protection. Supporting Statement for Paperwork Reduction Act Submission: 1651–0131, e-Allegations Submission. September 24, 2020. Available at *https://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=202009-1651-006.* Accessed November 24, 2020.

[8] Source: Email correspondence with CBP's Enforcement Operations Division on May 20, 2021.

[9] Source: Email correspondence with CBP's Enforcement Operations Division on May 20, 2021.

[10] Source: American Intellectual Property Law Association. *2017 Report of the Economic Survey.* ''Billable Hours, Billing Rate, Dollars Billed (Q29, Q30, Q27).'' June 2017.

[11] CBP calculated the 2021 adjusted dollar amount using the percent increase in the Annual Average GDP Price Deflator (2012=100) between 2016 and 2021. The annual average GDP Price Deflator value in 2016 = 105.74, the annual average GDP Price Deflator value in 2021 = 118.37, the percent increase was estimated to be around 11.19444% (118.37/105.74 = 1.119444 or 11.19444%). This percent increase was applied to the 2016 estimated hourly billing rate of $400 for external attorneys to estimate the 2021 hourly billing rate of $447.78 for external attorneys. CBP assumes an annual growth rate of 4.15% based on the prior year's change in the implicit price deflator, published by the Bureau of Economic Analysis, to arrive at the 2022 figure.

arguments to CBP, though not as part of a formal process.

This rule also established a process by which either the alleger or the alleged evader may request an administrative review of a determination as to evasion. The interested party has 30 business days after the determination to request an administrative review. CBP estimates an administrative review request takes 50 hours to complete and submit.

TABLE 1—TIME BURDENS FOR DOCUMENTS SUBMITTED TO CBP

Document submitted	Time burden (in hours)	Cost per submission (in 2022 dollars)
e-Allegations	0.25	$116.60
EAPA allegation	0.25	116.60
CF–28 Response	60	27,982.80
Initial Request for Information Response	90	41,974.20
Supplemental Request for Information Response	60	27,982.80
Administrative Review Request	50	23,319.00

The total cost of this rule to the industry is fully monetized by multiplying the cost per submission from Table 1 and the number of submissions in Table 2 and then summing the results for each year. The product of the cost per submission and the submissions by fiscal year are shown in Table 3, as well as the summing of each year's undiscounted costs.

TABLE 2—SUBMISSIONS BY FISCAL YEAR

Document submitted	2016	2017	2018	2019	2020	2021
e-Allegations (AD/CVD) *	115	76	106	91	106	147
EAPA allegations	2	29	57	127	149	127
CF–28 Response	1	17	19	54	46	47
Initial Request for Information Response	2	27	18	66	42	98
Supplemental Request for Information Response	0	13	18	26	13	47
Administrative Review Requests	0	0	2	2	14	21
Total Filings Caused by Rule	5	86	114	275	264	340

Note: Submissions are sorted by the fiscal year the case was initiated, not by the year the individual document was received.
* *Note:* e-Allegation (AD/CVD) submissions are not included in Total Filings Caused by Rule.

TABLE 3—INDUSTRY COSTS CAUSED BY RULE BY FISCAL YEAR

[In undiscounted 2022 dollars]

Document submitted	2016	2017	2018	2019	2020	2021	6 Year Total
e-Allegations (AD/CVD) *	$13,408	$8,861	$12,359	$10,610	$12,359	$17,139	$74,737
EAPA allegations	233	3,381	6,646	14,808	17,373	14,808	57,248
CF–28 Response	27,983	475,708	531,673	1,511,071	1,287,209	1,315,192	5,148,835
Initial Request for Information Response	83,948	1,133,303	755,536	2,770,297	1,762,916	4,113,472	10,619,473
Supplemental Request for Information Response	0	363,776	503,690	727,553	363,776	1,315,192	3,273,988
Administrative Review Requests	0	0	46,638	46,638	326,466	489,699	909,441
Total Industry Costs Caused by Rule	112,164	1,976,169	1,844,183	5,070,367	3,757,740	7,248,361	20,008,985

Note: Submissions are sorted by the fiscal year the case was initiated, not by the year the individual document was received.
* *Note:* e-Allegation (AD/CVD) submissions are not included in Total Industry Costs Caused by Rule.

CBP incurs costs throughout the EAPA investigative process and created two new branches to handle the new filings and resulting investigations. These two new branches are staffed with a total of 15 full-time equivalent (FTE) employees. The average CBP Trade and Revenue fully-loaded salary in fiscal year 2022 was $228,254.61.[12] This rule created 15 full-time equivalent positions and multiplying this by the FY 2022 wage rate results in $3,423,819 in undiscounted costs annually since 2016. As shown in Table 5, the total costs to CBP for the fiscal years 2016–2021 were $22,811,066 and $26,205,984 discounted at three and seven percent, respectively.

In summary, this rule resulted in a cost to the public of $18,337,822 to file EAPA allegations and respond to the questionnaires, under the EAPA investigation process since the EAPA IFR was published in 2016. In addition, CBP estimates that it cost the public $873,171 to file administrative review requests. In total, this rule has resulted in an undiscounted cost to the public of $19,210,993 and $20,542,915 to CBP.

[12] CBP bases this wage on the FY 2022 salary, benefits, premium pay, non-salary costs, and awards of the national average of CBP Trade and Revenue positions, which is equal to a GS–12, Step 10. Source: Email correspondence with CBP's Office of Finance on June 27, 2022.

TABLE 4—TOTAL COST

[In undiscounted 2022 U.S. dollars]

Fiscal year	Industry	CBP	Total
2016	$112,164	$3,423,819	$3,535,984
2017	1,976,169	3,423,819	5,399,988
2018	1,844,183	3,423,819	5,268,002
2019	5,070,367	3,423,819	8,494,186
2020	3,757,740	3,423,819	7,181,559
2021	7,248,361	3,423,819	10,672,181
Total	20,008,985	20,542,915	40,551,900

TABLE 5—MONETIZED PRESENT VALUE AND ANNUALIZED COSTS BY FISCAL YEAR

Fiscal year	Industry		CBP		Total	
	3% Discount rate	7% Discount rate	3% Discount rate	7% Discount rate	3% Discount rate	7% Discount rate
2016	$133,930	$168,329	$4,088,219	$5,138,229	$4,222,149	$5,306,558
2017	2,290,921	2,771,679	3,969,145	4,802,084	6,260,066	7,573,762
2018	2,075,644	2,417,348	3,853,539	4,487,929	5,929,183	6,905,276
2019	5,540,527	6,211,417	3,741,300	4,194,326	9,281,826	10,405,743
2020	3,986,587	4,302,237	3,632,330	3,919,931	7,618,916	8,222,167
2021	7,465,812	7,755,747	3,526,534	3,663,487	10,992,346	11,419,233
Total	21,493,421	23,626,756	22,811,066	26,205,984	44,304,487	49,832,740
Annualized Cost	3,226,048	3,086,842	3,423,819	3,423,819	6,649,867	6,510,661

4. Benefits

Domestic producers and legitimate importers benefit from better enforcement as a result of this rule. In fiscal year 2021, the EAPA process prevented the evasion of over $375 million in AD/CVD duties.[13] As domestic producers and legitimate importers grow more accustomed to the EAPA process, it is likely that this number will increase but CBP is unable to quantify this growth at this time.

Importers and domestic producers also benefit from increased transparency and predictability in the processing of AD/CVD evasion allegations because of this rule. Previously, an alleger submitted an e-Allegation to CBP and CBP was not able to provide any subsequent follow up to that alleger. This rule increased the transparency of the allegation process and set clear time frames for all parties involved. Furthermore, CBP increased communication with the public as a result of this rule, specifically regarding technical assistance and advice on how to properly file AD/CVD evasion allegations. This outreach could result in faster processing and response times for grievances; however, CBP is unable to quantify these benefits.

Additionally, this rule established a stronger working relationship among CBP, the trade community, and foreign governments in the effort to prevent evasion of AD/CVD duties. This rule gave CBP access to more information from all affected parties, which helps CBP improve AD/CVD enforcement. This rule helps prevent the circumvention of the AD/CVD laws, which benefits domestic producers by shielding them from unfair trade practices. Furthermore, to the extent that this rule reduces the evasion of AD/CVD payments, the government will benefit through higher AD/CVD revenue.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), as amended by the Small Business Regulatory Enforcement and Fairness Act of 1996, requires agencies to prepare and make available to the public a regulatory flexibility analysis that describes the effect of a proposed rule on small entities (*i.e.,* small businesses, small organizations, and small governmental jurisdictions) when the agency is required to publish a general notice of proposed rulemaking for a rule. Since a general notice of proposed rulemaking was not necessary for the IFR, CBP is not required to prepare a regulatory flexibility analysis for this rule.

Paperwork Reduction Act

The Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3507(d)) requires that CBP consider the impact of paperwork and other information collection burdens imposed on the public. An agency may not conduct, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number assigned by the Office of Management and Budget (OMB).

The e-Allegations submission information collection, which is assigned OMB control number: 1651–0131,[14] is being amended to reflect the change in burden hours caused by the EAPA requirements, and to include the EAPA Portal as described above, and to reflect the provisions of §§ 165.5(a) and 165.23(a). To create an account to access the EAPA Portal and submit an EAPA allegation, users provide their first name, last name, and email address and the process of account creation is estimated to take three minutes (0.05 hours). CBP estimates that the creation of 250 EAPA Portal accounts annually will add a total time burden of approximately 13 hours to the public.

[13] Source: CBP. *CBP Trade and Travel Report.* Available at *https://www.cbp.gov/sites/default/files/assets/documents/2022-Apr/FINAL%20FY2021_%20Trade%20and%20Travel%20Report%20%28508%20Compliant%29%20%28April%202022%29_0.pdf.* Accessed on June 16, 2022. Although data is available for some years prior to fiscal year 2021, in light of the newness of the EAPA program, CBP does not believe the data can be used to extrapolate a trend.

[14] CBP notes that the TVR system continues to be used for purposes other than EAPA.

CBP estimates that 149 EAPA allegations will be filed annually which is an increase of 82 from what was previously approved by OMB. These additional 82 EAPA allegations will result in an additional time burden of approximately 13 hours to the public, resulting in a total time burden of 30 hours to the public. In total, this rule resulted in an overall increase of 26 burden hours from what is currently approved by OMB. This increases the total burden hours for this collection from 289 to 315. The e-Allegations submission revisions described in this rule have been submitted to OMB for review and approval in accordance with the requirements of the Paperwork Reduction Act (44 U.S.C. 3507). OMB control number 1651–0131 is being revised to reflect the change in burden hours for EAPA respondents (*i.e.,* those responding to the EAPA submission requirements) and to confirm the burden hours for e-Allegations as follows:

E-Allegations

Estimated number of annual respondents: 1,088.
Estimated number of annual responses: 1,088.
Estimated time burden per response: 15 minutes (.25 hours).
Estimated total annual time burden: 272 hours.

EAPA Allegations

Estimated number of annual respondents: 149.
Estimated number of annual responses: 149.
Estimated time burden per response: 12 minutes (0.20 hours).
Estimated total annual time burden: 30 hours.

EAPA Portal Account Creation

Estimated number of annual respondents: 250.
Estimated number of annual responses: 250.
Estimated time burden per response: 3 minutes (0.05 hours).
Estimated total annual time burden: 13 hours.

Comments concerning the collections of information and the accuracy of the estimated annual burden, and suggestions for reducing that burden, should be submitted to OMB via *https://www.reginfo.gov.*

Signing Authority

This document is being issued in accordance with 19 CFR 0.1(a)(1) pertaining to the authority of the Secretary of the Treasury (or the Secretary's delegate) to approve regulations related to certain customs revenue functions.

Troy A. Miller, Senior Official Performing the Duties of the Commissioner, having reviewed and approved this document, has delegated the authority to electronically sign this document to the Director (or Acting Director, if applicable) of the Regulations and Disclosure Law Division of CBP, for purposes of publication in the **Federal Register**.

List of Subjects in 19 CFR Part 165

Administrative practice and procedure, Business and industry, Imports.

Amendments to the Regulations

For the reasons given above, the IFR, which was published at 81 FR 56477 on August 22, 2016, adding part 165 to Chapter I of the CBP regulations (19 CFR part 165), is adopted as final with the following changes:

PART 165—INVESTIGATION OF CLAIMS OF EVASION OF ANTIDUMPING AND COUNTERVAILING DUTIES

■ 1. The general authority citation for part 165 continues to read as follows:

Authority: 19 U.S.C. 66, 1481, 1484, 1508, 1517 (as added by Pub. L. 114–125, 130 Stat. 122, 155 (19 U.S.C. 4301 note)), 1623, 1624, 1671, 1673.

■ 2. Section 165.1 is amended by:
■ a. Revising the definition of ''*Allegation*'';
■ b. Adding the definition ''*Business day*'' in alphabetical order;
■ c. Revising the definition of ''*Evade* or *evasion*''; and
■ d. Revising the definition of ''*TRLED*''.

The addition and revisions read as follows:

§ 165.1 Definitions.

* * * * *

Allegation. The term ''allegation'' refers to a filing with CBP under § 165.11 by an interested party that alleges an act of evasion of AD/CVD orders by an importer.

* * * * *

Business day. The term ''business day'' means a weekday (Monday through Friday), excluding national holidays as specified in § 101.6(a) of this chapter.

* * * * *

Evade or *Evasion.* The terms ''evade'' and ''evasion'' refer to the entry of covered merchandise into the customs territory of the United States for consumption by means of any document or electronically transmitted data or information, written or oral statement, or act that is material and false, or any omission that is material, and that results in any cash deposit or other security or any amount of applicable antidumping or countervailing duties being reduced or not being applied with respect to the covered merchandise. Examples of evasion include, but are not limited to, the transshipment, misclassification, and/or undervaluation of covered merchandise.

* * * * *

TRLED. The term ''TRLED'' refers to the Trade Remedy Law Enforcement Directorate, Office of Trade, that conducts the investigation of alleged evasion under this part, and that was established as required by section 411 of the Trade Facilitation and Trade Enforcement Act of 2015 (TFTEA).

■ f. Section 165.3 is amended by adding a new paragraph (f) to read as follows:

§ 165.3 Power of attorney.

* * * * *

(f) *Return of submission.* If a party has not provided proof of execution of a power of attorney to CBP within five business days of an agent's first submission on behalf of an interested party pursuant to paragraph (e) of this section, or proof of authority to execute a power of attorney, if requested by CBP, pursuant to paragraph (c) of this section, CBP will reject the submission and will not consider or place such submission on the administrative record.

■ 4. Section 165.4 is amended by:
■ a. Revising the introductory text of paragraphs (a) and (b);
■ b. Revising paragraph (b)(3) and (e);
■ c. Adding a new paragraph (f).

The revisions and addition read as follows:

§ 165.4 Release of information provided by interested parties.

(a) *Claim for business confidential treatment.* Any interested party that makes a submission to CBP in connection with an investigation under this part, including for its initiation and administrative review, may request that CBP treat any part of the submission as business confidential information except for the information specified in paragraph (c) of this section. If the requirements of this section are satisfied and the information for which protection is sought consists of trade secrets and/or commercial or financial information obtained from any person, which is privileged or confidential in accordance with 5 U.S.C. 552(b)(4), CBP will grant business confidential treatment and issue an administrative protective order pursuant to paragraph (f) of this section. All documents and

communications that are submitted to CBP after notice of initiation of an investigation must be served on all parties to the investigation by the submitting entity (for business confidential documents, a public version must be served as well, in accordance with paragraph (a)(2) of this section).

* * * * *

(b) *Nonconforming submissions.* CBP will reject a submission that includes a request for business confidential treatment but does not meet the requirements of paragraph (a) of this section and will not consider or place such submission on the administrative record unless the submitting interested party takes any of the actions in paragraph (b)(2) of this section within the timeframe specified in paragraph (b)(2) of this section.

* * * * *

(3) *Effects of rejection.* If the submitting interested party does not take any of the actions in accordance with paragraph (b)(2) of this section, CBP will not consider the rejected submission, not place such submission on the administrative record, and, if applicable, adverse inferences may be drawn pursuant to § 165.6.

* * * * *

(e) *Information placed on the record by CBP.* Any information that CBP places on the administrative record, when obtained other than from an interested party subject to the requirements of this section, will include a public summary of the business confidential information as described in paragraph (a)(2) of this section, when applicable. If CBP places information on the record from parties who are not already subject to the requirements of this section, CBP will require these parties to conform to the requirements of this section and § 165.5 when filing submissions. Otherwise, such submissions may be treated as nonconforming submissions pursuant to paragraph (b) of this section and/or § 165.5(b)(4).

(f) *Administrative protective order.* In each investigation where CBP has granted a request by an interested party to treat any part of its submission as business confidential information, CBP will issue an administrative protective order which will contain terms to allow the representatives of parties to the investigation to access the business confidential information.

■ 5. Section 165.5 is amended by:

■ a. Revising paragraph (b)(2) introductory text;

■ b. Removing in paragraphs (b)(2)(ii) and (iii) the reference ''19 CFR'' and adding in its place ''§'';

■ c. Adding a new paragraph (b)(4); and

■ d. Revising paragraphs (c)(1) and (2).

The revisions and addition read as follows:

§ 165.5 Obtaining and submitting information.

* * * * *

(b) * * *

(2) *Certifications.* Every written submission made to CBP by an interested party or requested by CBP from any other party pursuant to §§ 165.4 and 165.5 must be accompanied by the following certifications from the person making the submission:

* * * * *

(4) *Nonconforming submissions.* CBP will reject a submission that does not meet the requirements of paragraph (b) of this section and will not consider it or place it on the administrative record.

(c) * * *

(1) *Requests for extensions.* CBP may, for good cause, extend any regulatory time limit, or any deadline for the submission of information requested by CBP, if a party requests an extension in a separate, stand-alone submission and states the reasons for the request. Such requests must be submitted no less than three business days before the time limit expires unless there are extraordinary circumstances. An extraordinary circumstance is an unexpected event that could not have been prevented even if reasonable measures had been taken by the requester. It is within CBP's reasonable discretion to determine what constitutes extraordinary circumstances, what constitutes good cause, and to grant or deny a request for an extension.

(2) *Rejection of untimely submissions.* If a submission is untimely filed, CBP will not consider it or place it on the administrative record and adverse inferences may be applied, if applicable.

■ 6. Section 165.6 is amended by revising paragraph (b) to read as follows:

§ 165.6 Adverse inferences.

* * * * *

(b) *Adverse inferences described.* An adverse inference used under paragraph (a) may include reliance on information derived from an allegation, a prior determination in another CBP investigation, proceeding, or action that involves evasion of AD/CVD orders, or any other available information on the administrative record.

* * * * *

■ 7. Section 165.12 is amended by revising paragraph (b) to read as follows:

§ 165.12 Receipt of allegations.

* * * * *

(b) *Withdrawal.* An allegation may be withdrawn by the party that filed it if that party submits a request to withdraw the allegation to the designated email address specified by CBP or through any other method approved or designated by CBP.

■ 8. Section 165.13 is amended by revising paragraphs (c) and (d) to read as follows:

§ 165.13 Consolidation of allegations.

* * * * *

(c) *Notice.* Notice of consolidation will be promptly transmitted to all parties to the investigation if consolidation occurs at a point in the investigation after which they have already been notified of the ongoing investigation. Otherwise, parties will be notified no later than five business days after day 90 of the investigation.

(d) *Service requirements for other parties to the investigation.* Upon notification of consolidation, parties to the consolidated investigation must serve on the newly added parties to the investigation, via an email message or through any other method approved or designated by CBP, public documents and the public versions of any documents that were previously served on parties to the unconsolidated investigation. Service must take place within five business days of the notice of consolidation.

■ 9. Section 165.14 is amended by revising paragraph (a) to read as follows:

§ 165.14 Other Federal agency requests for investigation.

(a) *Requests for investigations.* Any other Federal agency, including but not limited to the Department of Commerce or the United States International Trade Commission, may request an investigation under this part. CBP will initiate an investigation if the Federal agency has provided information that reasonably suggests that an importer has entered covered merchandise into the customs territory of the United States through evasion, unless the agency submits a request to withdraw to the designated email address specified by CBP or through any other method approved or designated by CBP.

* * * * *

■ 10. Section 165.15 is amended by revising paragraphs (d)(1) and (e) to read as follows:

§ 165.15 Initiation of investigations.

* * * * *

(d) * * *

(1) *In general.* CBP will issue a notice of its decision to initiate an

investigation to all parties to the investigation no later than five business days after day 90 of the investigation, and the actual date of initiation of the investigation will be specified therein. In cases where interim measures are taken pursuant to § 165.24, notice to all parties to the investigation will occur no later than five business days after day 90 of the investigation.

* * * * *

(e) *Record of the investigation.* If an investigation is initiated pursuant to subpart B of this part, then the information considered by CBP prior to initiation will be part of the administrative record pursuant to § 165.21. Any documents submitted prior to the issuance of a notice of CBP's decision to initiate an investigation will be served by CBP on the parties to the investigation, regardless of who submitted those documents.

■ 11. Section 165.16 is amended by revising paragraph (d).

§ 165.16 Referrals to Department of Commerce.

* * * * *

(d) *Effect on investigation.* The time period required for any referral and determination by the Department of Commerce will not be counted toward the deadlines for CBP to decide on whether to initiate an investigation under § 165.15, whether to take interim measures under § 165.24, or the deadline to issue a determination as to evasion under § 165.27.

* * * * *

■ 12. Section 165.22 is amended by:
■ a. In paragraph (a) removing the words ''not later'' and adding in their place the words ''no later'';
■ b. Revising paragraph (b);
■ c. In paragraph (d), removing the words ''not later'' and adding in their place the words ''no later''; and
■ c. In paragraph (d), removing the word ''*Notification*'' and adding in its place the word ''*Notice*''.

The revision reads as follows:

§ 165.22 Time for investigations.

* * * * *

(b) *Time for determination with consolidated allegations.* If CBP consolidates multiple allegations under § 165.13 into a single investigation under § 165.15, the date of receipt of the first properly filed allegation will be used for the purposes of the requirement under paragraph (a) of this section with respect to the timing of the initiation of the investigation.

* * * * *

■ 13. Section 165.23 is amended by:
■ a. Revising paragraph (b);
■ b. Revising the last sentence of paragraph (c)(1);
■ c. Revising paragraph (c)(2); and
■ d. Revising paragraph (d).

The revisions read as follows:

§ 165.23 Submission of factual information.

* * * * *

(b) *Voluntary submission of factual information.* The parties to the investigation may submit additional information in order to support the allegation of evasion or to negate or clarify the allegation of evasion.

(c) * * *

(1) * * * If CBP places new factual information on the administrative record on or after the deadline for submissions of new factual information pursuant to paragraph (c)(2) of this section (or if such information is placed on the record at CBP's request), the parties to the investigation will have 10 calendar days to provide rebuttal information to the new factual information.

(2) *Voluntary submission of factual information.* (i) Factual information voluntarily submitted to CBP pursuant to paragraph (b) of this section must be submitted no later than 200 calendar days after CBP initiated the investigation under § 165.15, unless this deadline is officially extended by CBP solely at CBP's discretion. If CBP extends this deadline, parties to the investigation will be notified and may make submissions up through the end of the extended deadline. Voluntary submissions made after the 200th calendar day after initiation of the investigation, or after the extended deadline, will not be considered or placed on the administrative record, except rebuttal information as provided in paragraph (c)(2)(ii) of this section. The public version must also be served via an email message or through any other method approved or designated by CBP on the parties to the investigation.

(ii) Parties to the investigation will have 10 calendar days from the date of placement of any new factual information on the record to provide rebuttal information to that new factual information, if the information being rebutted was placed on the administrative record no later than 200 calendar days after CBP initiated the investigation under § 165.15, or no later than the extended deadline.

(d) *Oral discussions.* Notwithstanding the time limits in paragraph (c) of this section, CBP may request oral discussion either in-person or by teleconference. CBP will memorialize such discussions with a written summary that identifies who participated and the topic of discussion, and place the written summary on the administrative record. In the event that business confidential information is included in the written summary, CBP will also place a public version on the administrative record.

■ 14. Section § 165.24 is amended by revising paragraph (c) to read as follows:

§ 165.24 Interim measures.

* * * * *

(c) *Notice.* If CBP decides that there is reasonable suspicion under paragraph (a) of this section, CBP will issue a notice of this decision to the parties to the investigation within five business days after taking interim measures. CBP will also provide parties to the investigation with a public version of the administrative record within 10 business days of the issuance of a notice of initiation of an investigation.

■ 15. Section 165.25 is amended by:
■ a. Revising paragraph (b); and
■ b. Adding new paragraphs (c) and (d).

The revision and additions read as follows:

§ 165.25 Verifications of information.

* * * * *

(b) CBP may conduct verifications before and after the deadline for the voluntary submission of new factual information as referenced in § 165.23. The general purpose of the verification is to verify the accuracy of the information already placed on the administrative record.

(c) CBP will place a report about the verification, *i.e.,* the verification report, on the administrative record. CBP will require the party that underwent the verification to place verification exhibits on the administrative record. Verification exhibits will generally contain information compiled and verified by CBP at CBP's discretion during the verification. In accordance with § 165.4, both CBP and the party that underwent the verification will provide public versions of their verification documents, which will be served on all parties to the investigation. CBP will not accept voluntary submissions of new factual information at the verification after the deadline for voluntary submission of new factual information, as referenced in § 165.23. Parties to the investigation cannot submit rebuttal information to either CBP's verification report or the verification exhibits. Parties to the investigation may submit to CBP written arguments in relation to the verification report and/or its exhibits in accordance with § 165.26.

(d) If CBP determines that information discovered during a verification is

relevant to the investigation and constitutes new factual information, CBP will place it on the administrative record separately, in accordance with § 165.23, and allow parties to the investigation to submit rebuttal information.

■ 16. Section 165.26 is amended by revising paragraphs (a), (b), (c), and (d)(2) to read as follows:

§ 165.26 Written arguments.

* * * * *

(a) *Written arguments.* Parties to the investigation:

(1) May submit to CBP written arguments that contain all arguments that are relevant to the determination as to evasion and based solely upon facts already on the administrative record in that proceeding. All written arguments must be:

(i) Submitted to the designated email address specified by CBP or through any other method approved or designated by CBP;

(ii) Submitted no later than 230 calendar days after the investigation was initiated pursuant to § 165.15, unless extended by CBP solely at CBP's discretion but no later than 300 calendar days after the investigation was initiated, or 360 calendar days after the investigation was initiated if the deadline for a determination as to evasion has been extended by CBP pursuant to § 165.22(c); and

(2) Must serve a public version of the written arguments prepared in accordance with § 165.4 on the other parties to the investigation by an email message or through any other method approved or designated by CBP the same day it is filed with CBP.

(b) *Responses to the written arguments.* Parties to the investigation:

(1) May submit to CBP a response to a written argument filed by another party to the investigation, fulfilling the following requirements:

(i) The response must be in writing and submitted to the designated email address specified by CBP, or through any other method approved or designated by CBP, no later than 15 calendar days after the written argument was filed with CBP, unless extended by CBP solely at CBP's discretion; and

(ii) The response must be limited to the issues raised in the written argument; any portion of a response that is outside the scope of the issues raised in the written argument will not be considered; and

(2) Must serve a public version of the response prepared in accordance with § 165.4 on the other parties to the investigation by an email message or through any other method approved or designated by CBP the same day it is filed with CBP.

(c) *Written arguments submitted upon request.* Notwithstanding paragraphs (a) and (b) of this section, CBP may request written arguments on any issue from the parties to the investigation at any time during an investigation.

(d) * * *

(2) A concise summary of the argument or response to the argument;

* * * * *

■ 17. Section 165.28 is amended by revising paragraph (c) to read as follows:

§ 165.28 Assessments of duties owed; other actions.

* * * * *

(c) *Cash deposits and duty assessment.* CBP will require the posting of cash deposits and assess duties on entries of covered merchandise subject to its affirmative determination of evasion in accordance with the instructions received from the Department of Commerce.

■ 18. Revise the heading to subpart D to read as follows:

Subpart D—Administrative Review of Determinations as to Evasion

■ 19. Section 165.41 is amended by:

■ a. Removing the word ''initial'' in the section heading and each time it appears in the section;

■ b. Revising the introductory text of paragraph (f);

■ c. Revising paragraph (h); and

■ d. Removing the last sentence of paragraph (i).

The revisions read as follows:

§ 165.41 Filing a request for review of the determination as to evasion.

* * * * *

(f) *Content.* Each request for review must be based solely on the facts on the administrative record in the proceeding, in writing, and may not exceed 30 pages in total (including exhibits but not table of contents or table of authorities). It must be double-spaced with headings and footnotes single spaced, margins one inch on all four sides, and 12-point font Times New Roman. If it exceeds 10 pages, it must include a table of contents and a table of cited authorities. CBP will reject a request for review that does not meet the requirements of this paragraph, and will not consider it or place it on the administrative record. Each request for review must set forth the following:

* * * * *

(h) *Consolidation of requests for administrative review.* Multiple requests under the same allegation control number assigned by CBP may be consolidated into a single administrative review matter.

* * * * *

■ 20. Revise § 165.42 to read as follows:

§ 165.42 Responses to requests for administrative review.

Any party to the investigation, regardless of whether it submitted a request for administrative review, may submit a written response to the filed request(s) for review. A party who submitted a request for administrative review may not respond to its own submission. Each written response may not exceed 30 pages in total (including exhibits but not table of contents or table of authorities) and must follow the requirements in § 165.41(f). The written responses to the request(s) for review must be limited to the issues raised in the request(s) for review and must be based solely on the facts already on the administrative record in that proceeding. The responses must be filed in a manner prescribed by CBP no later than 10 business days from the commencement of the administrative review. All responses must be accompanied by the certifications provided for in § 165.5. Each party seeking business confidential treatment must comply with the requirements in § 165.4. The public version of the response(s) to the request(s) for review must be provided to the other parties to the investigation via an email message or through any other method approved or designated by CBP.

■ 21. Revise § 165.44 to read as follows:

§ 165.44 Additional information.

CBP may request additional written information from the parties to the investigation at any time during the review process. The parties who provide the requested additional information must provide a public version to the other parties to the investigation via an email message or through any other method approved or designated by CBP. The submission of additional information requested by CBP must comply with requirements for release of information in § 165.4. CBP may apply an adverse inference as stated in § 165.6 if the additional information requested under this section is not provided. CBP will only accept written submissions of additional information in response to a request by CBP. No meetings or any other methods of unsolicited submission of additional information are permitted during the administrative review.

■ 22. Revise § 165.45 to read as follows:

§ 165.45 Standard for administrative review.

CBP will apply a de novo standard of review and will render a determination appropriate under law according to the specific facts and circumstances on the record. For that purpose, CBP will review the entire administrative record upon which the determination as to evasion was made, the timely and properly filed request(s) for review and responses, and any additional information that was received in response to a request by CBP pursuant to § 165.44. The administrative review will be completed within 60 business days of the commencement of the review.

■ 23. Section § 165.46 is amended by:
■ a. Removing in paragraph (a) the acronym ''EAPA'' and adding in its place the acronym ''TFTEA''; and
■ b. Revising paragraph (b).

The revision reads as follows:

§ 165.46 Final administrative determination.

* * * * *

(b) *Effect of the administrative review.* If the administrative review affirms the determination as to evasion, then no further CBP action is needed. If the administrative review reverses the determination as to evasion, then CBP will take appropriate actions consistent with the administrative review.

Robert F. Altneu,

Director, Regulations & Disclosure Law Division, Regulations & Rulings, Office of Trade, U.S. Customs and Border Protection.

Aviva R. Aron-Dine,

Acting Assistant Secretary of the Treasury for Tax Policy.

[FR Doc. 2024–04713 Filed 3–15–24; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 948

[SATS No. WV–118–FOR (partial); Docket ID: OSM–2011–0009; SATS No. WV–126–FOR; Docket ID: OSM–2019–0012; S1D1S SS08011000 SX064A000 220S180110;S2D2S SS08011000 SX064A000 220XS501520]

West Virginia Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule; approval of amendment in part, disapproval of amendment in part.

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement (OSMRE), are approving amendments to the West Virginia regulatory program (the West Virginia program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). These amendments make changes to the West Virginia Surface Coal Mining and Reclamation Act (WVSCMRA), the Code of West Virginia (W.Va. Code), and the West Virginia Code of State Rules (CSR).

DATES: This rule is effective April 17, 2024.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Castle, Acting Director, Charleston Field Office, Telephone: (859) 260–3900. Email: *osm-chfo@osmre.gov.*

SUPPLEMENTARY INFORMATION:

I. Background on the West Virginia Program

Subject to OSMRE's oversight, section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its program includes, among other things, State laws and regulations that govern surface coal mining and reclamation operations in accordance with the Act and consistent with the Federal regulations. *See* 30 U.S.C. 1253(a)(1) and (7). Based on these criteria, the Secretary of the Interior conditionally approved the West Virginia program on January 21, 1981. You can find background information on the West Virginia program, including the Secretary's finding, the disposition of comments, and conditions of approval of the West Virginia program in the January 21, 1981, **Federal Register** (46 FR 5915). You can also find later actions concerning West Virginia's program and program amendments at 30 CFR 948.10, 948.12, 948.13, 948.15, and 948.16.

II. Submission of the Amendment

WV–118–FOR

By letter dated April 25, 2011, received by us on May 2, 2011 (Administrative Record Number WV–1561), the West Virginia Department of Environmental Protection (WVDEP) submitted an amendment to its program under SMCRA, docketed as WV–118–FOR. The proposed amendment consists of regulatory revisions to the West Virginia Surface Mining Reclamation Regulations at CSR Title 38, Series 2, as contained in Committee Substitute for Senate Bill 121 of 2011. *See* 2011 W.Va. Acts ch. 109. As is discussed more fully below, because West Virginia has made multiple submissions with respect to the same or similar provisions of statue and regulations, only a portion of the original submission from West Virginia will be addressed in this final rule. The remaining portion of WV–118 will be addressed in a subsequent final rule.

Relevant to this Notice, Senate Bill 121 authorizes regulatory revisions codifying an emergency rule issued on December 16, 2009, which amend the existing West Virginia coal mining regulations by adding trust funds and annuities as approved forms of financial assurance instruments.

We announced receipt of the proposed amendment in the November 2, 2011, **Federal Register** (76 FR 67637). In the same notice, we opened a public comment period and provided an opportunity for a public hearing on these provisions (Administrative Record Number WV–1573). The public comment period closed on December 2, 2011. We received responses from three Federal agencies stating that they had no comments.

WV–126–FOR

By letters dated May 2, 2018 (Administrative Record Nos. WV–1613A, in part, and WV–1613B), WVDEP submitted an amendment to its program under SMCRA, docketed as WV–126–FOR. The amendment contains revisions to the WVSCMRA and the West Virginia Surface Mining Reclamation Regulations at CSR 38–2–1 *et seq.,* as contained in Committee Substitutes for Senate Bills 163 and 626 of 2018. *See* 2018 W.Va. Acts chs. 141, 152.

Senate Bill 163 seeks to revise regulatory provisions involving definitions, reclamation, the environmental security account for water quality, water quality enhancement and modifying sections on incremental bonding, release of bonds, forfeiture of bonds, effluent limitations, and blasting.

Senate Bill 626 seeks to revise statutory provisions about the method in which permit applications, permit revisions, and informal conferences are advertised under WVSCMRA and make several editorial corrections about items such as position titles and agency names.

We announced the receipt of the proposed amendment in the February 14, 2020, **Federal Register** (85 FR 8497). In the same document, we opened the public comment period and provided an

opportunity for a public hearing or meeting on the adequacy of the amendment. The public comment period ended on March 16, 2020. We did not hold a public hearing or meeting because one was not requested. We received one public comment that is addressed below in the Public Comments section of part IV, Summary and Disposition of Comments.

When announcing the proposed amendment, we removed the blasting portion of Senate Bill 163 from the proposed rule and subsequently announced it on February 10, 2020, (85 FR 7476), as a part of the West Virginia program amendment WV–123–FOR. West Virginia had previously submitted an amendment to its blasting regulations that had not been approved; therefore, in order to keep all changes to the blasting regulations together, we consolidated them into WV–123–FOR.

WVDEP-Division of Mining and Reclamation (DMR) sent a letter to the Regional Director, Interior Regions 1 and 2, dated February 3, 2020. In its letter, West Virginia asked us to prioritize part of the WV–118–FOR submission, in particular changes to CSR 38–2–11.3.f pertaining to financial assurance requirements, which also relates to requirements to release bonds and forfeiture of bonds. These changes are discussed in detail below.

III. OSMRE's Findings

We are approving in part and disapproving in part the revisions proposed in WV–118 and WV–126 as described below. We made the following findings concerning West Virginia's amendment as provided under SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17. Any revisions that we do not specifically discuss below concerning non-substantive wording or editorial changes can be found in the full text of the program amendment available at *www.regulations.gov,* searchable by the Docket ID Numbers referenced at the top of this notice.

Statutory Revisions

The following describes the substantive statutory revisions that WVDEP submitted to OSMRE for approval on May 2, 2018 (Administrative Record WV–1613–B) (WV–126).

1. W.Va. Code 22–3–9(a)(6). Permit Application Requirements and Contents

West Virginia submitted a revision to this statutory provision that would remove the requirement that an applicant's advertisement of its permit application must be published in a newspaper of general circulation in the locality of the proposed permit area at least once a week for four successive weeks and add in its place a requirement that an applicant's advertisement must be on a form and in a manner prescribed by the Secretary, which manner may be electronic.

OSMRE Finding: We are not approving this section of the amendment as it is less stringent than sections 507(b)(6) and 513(a) of SMCRA (30 U.S.C. 1257(b)(6) and 1263(a)) and less effective than the Federal regulations at 30 CFR 773.6. Updating the public notification process to include electronic means is desirable. However, SMCRA specifically requires that permit applications, significant revisions, or renewal of a permit must be announced with an advertisement in a local newspaper of general circulation in the locality of the mining and reclamation operation at least once a week for four consecutive weeks. As one of the commenters notes, West Virginia cannot ensure that electronic public notice will reach the same audience contemplated by SMCRA's newspaper requirement. Therefore, while adding electronic means is encouraged, the elimination of the newspaper requirement renders the proposal less stringent and less effective than the Federal requirements.

2. W.Va. Code 22–3–20. Public Notice; Written Objections; Public Hearings; Informal Conferences

West Virginia submitted two revisions to this statutory provision consistent with its proposed revision to section 22–3–9(a)(6), above. The first revision, concerning subsection (a), would remove the requirement that, at the time of submission, the applicant must place the advertisement of its permit application or permit revision in a local newspaper of general circulation in the county of the proposed surface mining operation at least once a week for four consecutive weeks and add in its place a requirement that the applicant must submit to WVDEP a copy of the required advertisement for public notice on a form and in a manner prescribed by the Secretary, which manner may be electronic. The second revision, concerning subsection (b), would remove the requirement that the Secretary of WVDEP must advertise the date, time, and location of the informal conference in a newspaper of general circulation in the locality of the operation at least two weeks before the scheduled informal conference date and add in its place that the advertisement be on a form and in a manner prescribed by the Secretary, which manner may be electronic.

OSMRE Finding: We are not approving the proposed revision to section 22–3–20(a) as it is less stringent than sections 507(b)(6) and 513(a) of SMCRA (30 U.S.C. 1257(b)(6) and 1263(a)) and less effective than the Federal regulations at 30 CFR 773.6, which require that permit applications, significant revisions, or renewal of a permit must be announced with an advertisement in a local newspaper of general circulation in the locality of the mining and reclamation operation at least once a week for four consecutive weeks. As noted above, while updating the public notification process to include electronic means is desirable, the elimination of the newspaper requirement renders the proposal less stringent and less effective than the Federal requirements. For these same reasons, we are also not approving the proposed revision to W.Va. Code 22–3–20(b) amending the notice requirement, as doing so would render the provision less stringent than section 513(b) of SMCRA (30 U.S.C. 1263(b)) and less effective than the Federal regulations at 30 CFR 773.6(c)(2)(ii), which require the regulatory authority to advertise the date, time, and location of informal conferences in a newspaper of general circulation in the locality of the proposed operation.

Regulatory Revisions

The following describes substantive regulatory revisions that WVDEP submitted to us for approval on April 25, 2011 (Administrative Record WV–1561) (WV–118) and May 2, 2018 (Administrative Record WV 1613–A) (WV–126).

1. CSR 38–2–2. Definitions

West Virginia proposes to remove the following definitions for lack of Federal counterpart:

a. CSR 38–2–2.6. Acid Test Ratio means the relation of quick assets to current liabilities.

b. CSR 38–2–2.37. Completion of Reclamation means that all terms and conditions of the permit have been satisfied, the final inspection report has been approved by the Secretary, that all applicable effluent and applicable water quality standards are met, and the total bond has been released.

OSMRE Findings: The term ''acid test ratio'' has no Federal counterpart and is not used in the existing West Virginia regulations; the CSR defines other terms, including ''asset ratio'' and ''current ratio'' under CSR 38–2–2 (relating to definitions); and ''current assets'' and ''current liabilities,'' as

defined and used under CSR 38–2–11.3.d (relating to self-bonding), make up the definition of ''acid test ratio.'' As such, we have determined that the proposed deletion does not render the West Virginia statute or regulations either less stringent than SMCRA or less effective than the Federal regulations found at 30 CFR 701.5, and we approve of its removal.

There is no direct counterpart in the Federal regulations for the West Virginia defined term ''completion of reclamation.'' This term follows the WVSCMRA requirements that an operator must faithfully and fully perform all requirements of the statute and of the permit before a bond is fully released and reclamation is determined to be complete. *See* W.Va. Code 22–3–11; 22–3–23(c)(3).

While the Federal regulations do not define the term ''completion of reclamation'' they do define ''reclamation'' at 30 CFR 701.5 as ''those actions taken to restore mined land *as required by this chapter* to a postmining land use approved by the regulatory authority'' (emphasis added). In addition to the term ''completion of reclamation,'' the CSR contains a stand-alone term ''reclamation'' defined as ''those actions taken to restore mined land to the approved postmining land use.'' Notably missing from the West Virginia definition is the reminder of the obligation to take all actions required by the regulations including those not solely focused on restoring mined land to its approved postmining land use approved by the regulatory authority.

The Federal regulations at 30 CFR 732.15 clarify that the State's laws and regulations, collectively, must be in accordance with SMCRA and consistent with the Federal regulations. We have previously found the CSR definition of ''reclamation'' to be no less effective than the Federal requirements when the regulations are ''viewed in their entirety with WVSCMRA,'' despite its deviation from the Federal definition. *See* 55 FR 21304, 21306 (May 23, 1990) (explaining that any provisions not specifically discussed in this notice were ''substantively identical to the corresponding Federal regulations in effect on June 9, 1988, with minor changes to improve clarity and specificity and to incorporate State references and terms were deemed necessary or useful''). While nothing in the approved West Virginia stand-alone definition of ''reclamation'' permits operators to deviate from the statutory and regulatory requirements, the term ''completion of reclamation'' offers clarity and an unambiguous reminder of the obligation, similar to that in the Federal definition of ''reclamation,'' to take all actions required by the regulations, not just those necessary to achieve the approved postmining land use as approved by the regulatory authority. Specifically, it requires that ''all terms and conditions of the permit have been satisfied, the final inspection report has been approved by the Secretary, that all applicable effluent and applicable water quality standards are met, and the total bond has been released.'' The additional protections incorporated in the term ''completion of reclamation'' are now proposed to be removed. When taken together, the two approved terms ''reclamation'' and ''completion of reclamation'' made the West Virginia program no less effective than the Federal regulations. The current proposal to remove one of the two terms would make the West Virginia program collectively less effective than the Federal regulations in that it would create an ambiguity in the requirement to take all actions required by the regulations beyond those immediately necessary to restore mined land to a postmining land use approved by the regulatory authority.

For example, we first relied upon the definition of the term ''completion of reclamation'' when we approved the definition of the term ''disturbed area'' currently in W.Va. Code 22–3–3(j). *See* 46 FR 5915, 5920 (Jan. 21, 1981). In that approval, we explained that even though West Virginia's definition of ''disturbed area'' lacked language from the Federal definition prescribing that an area is considered disturbed until the bond is released, the definition of ''completion of reclamation'' made that clear. Later, we relied upon the definition of the term ''completion of reclamation'' to remove required amendments of the West Virginia program with respect to its financial assurance requirements and obligations. West Virginia uses an approved alternative bond system that is designed to achieve the objectives and purposes of section 509 of SMCRA as implemented in 30 CFR 800.11(e)(1). Historically, West Virginia's alternative bond system, commonly referred to as the Special Reclamation Fund, has been the subject of amendments, some required by us to address inadequacies of the system, eliminate the deficit in the State's alternative bonding system, and ensure that sufficient money will be available to complete reclamation. Those obligations included the treatment of polluted water discharged from all bond forfeiture sites and a requirement that moneys from the Special Reclamation Fund must be used, where needed, to pay for water treatment on bond forfeiture sites. These required amendments were removed, in part, based upon the existing definition at CSR 38–2–2.37 and its role in supporting the mandatory requirement that bond forfeiture monies be used, where needed, for acid mine drainage treatment. *See* 60 FR 51900 *(*October 4, 1995); 66 FR 67446 *(*December 28, 2001); and 67 FR 37610, 37613–14 (May 29, 2002).

In view of the statutory and regulatory framework and history discussed, we conclude that the removal of the definition ''completion of reclamation'' would render the West Virginia program less effective than the Federal regulations, and we are not approving its removal.

2. CSR 38–2–9. Revegetation

CSR 38–2–9.3.d Standards for Evaluating Vegetative Cover. West Virginia proposes to amend this section to remove the minimum two-year waiting period for WVDEP to conduct a vegetative inspection, a precondition to a Phase II bond release. The proposal will remove the phrase ''Not less than two (2) years following the last date of augmented seeding'' while retaining the requirement: ''the Secretary shall conduct a vegetative inspection to verify that applicable standards for vegetative success have been met.''

OSMRE Findings: The Federal regulations at 30 CFR 816.116 and the West Virginia regulations at CSR 38–2–9.3 identify the applicable standards for vegetative success, and 30 CFR 800.40(c) and CSR 38–2–12.2.c describe the regulatory authority's responsibility to verify compliance with revegetation requirements before releasing a commensurate amount of bond. While individual vegetative standards can have timing elements associated with their successful establishment (for example, trees and shrubs counted to determine the success of fish and wildlife habitat must be in place for not less than two growing seasons, *see* 30 CFR 816.116(b)(3)(ii) and CSR 38–2–7.7.f.3 and 9.3.g), neither SMCRA nor the Federal regulations establish a blanket waiting period for the regulatory authority to conduct an evaluation of vegetative success. The two year waiting period for inspection under the successful revegetation standards in CSR 38–2–9.3.d is a companion provision to CSR 38–2–12.2.c.2, which requires for Phase II bond release that ''[n]ot less than two years after the last augmented seeding, standards for revegetation success have been met.'' West Virginia also proposes to delete

CSR 38–2–12.2.c.2, which we discuss and approve below.

When we approved West Virginia's inspection frequency of inactive mines, we explained that West Virginia's two-year requirement under CSR 38–2–12.2.c.2 was more stringent than Federal requirements. The Federal requirements at 30 CFR 800.40(c) ''require only that revegetation be successfully established, with the definition of 'established' left to the discretion of the regulatory authority, provided it includes adequacy to control erosion and compliance with the species composition requirements of the reclamation plan.'' *See* 55 FR 21304 (May 23, 1990). When a regulatory authority proposes to remove a provision that is more stringent than the Federal requirements, we must still ensure the remaining provisions are not rendered less stringent than those requirements. For purposes of the inspection following an application for bond release, the timing of WVDEP's inspection under CSR 9.3.d is not critical to a mining operator's achievement of the relevant vegetative performance standard or to WVDEP's evaluation of whether the standard is met. The proposed amendment to CSR 38–2–9.3.d retains West Virginia's commitment to verify that applicable standards for vegetative success have been met before the relevant portion of bond is released and, therefore, is no less stringent than Sections 505 and 519 of SMCRA (30 U.S.C. 1265 and 1269) or less effective than the Federal regulations at 30 CFR 800.40 and 816.116. Therefore, we are approving the amendment.

3. CSR 38–2–11. Insurance and Bonding

CSR 38–2–11.3.f—Special consideration for sites with long-term postmining pollutional discharges. West Virginia proposes to add a new rule which states that, upon approval of the WVDEP Secretary, a permittee may establish a trust fund, annuity, or both to guarantee treatment of long-term postmining pollutional discharges in lieu of posting one of the other approved forms of bond. The new rule subjects the trust fund or annuity to the following conditions: (1) WVDEP will determine the amount of the trust fund or annuity, and that amount must be adequate to meet all anticipated treatment needs, including capital and operating expenses; (2) it must be in a form approved by WVDEP and contain all terms and conditions required by WVDEP; (3) it must irrevocably establish WVDEP as the beneficiary; (4) WVDEP will specify the investment objectives of the instrument; (5) termination will only occur only as specified by WVDEP upon its determination that no further treatment or other reclamation measures are necessary, that a replacement bond or other financial instrument has been posted, or that the administration of the instrument requires termination in accordance with its purpose; (6) release of money may be made only upon written authorization by WVDEP or according to a schedule established in the trust or annuity agreement; (7) the financial institution or company serving as trustee or issuing the annuity must be a bank or trust company organized or authorized to do business in West Virginia, a national bank chartered by the West Virginia Office of the Comptroller of the Currency, an insurance company licensed or authorized to do business in West Virginia or designated by the West Virginia Insurance Commissioner as an eligible surplus lines insurer, or any other financial institution or company with trust powers and with offices located in West Virginia provided that its activities are examined or regulated by a State or Federal agency; (8) the trust fund or annuity must be established in a manner that guarantees that sufficient money is will be available to pay for the treatment of postmining pollutional discharges (including maintenance, renovation, and replacement of treatment support facilities), the reclamation of sites upon which the treatment facilities are located, and areas used in support of those facilities.

Finally, West Virginia's new rule specifies that when the trust fund or annuity is in place and fully funded sufficient to treat all discharges and reclaim all areas involved in such treatment, WVDEP may approve the release of conventional bonds posted for the permit or permit increment, provided that apart from the pollutional discharge covered by the trust or annuity, the area fully meets all applicable reclamation requirements. The new rule further specifies that portions of the permit required for treatment must remain bonded, but that the trust or annuity serves as that bond.

OSMRE Findings: SMCRA, WVSCMRA, and their implementing regulations require that performance bonds or approved alternatives be sufficient to cover treatment of long-term postmining pollutional discharges in the event that the permittee fails to do so. *See* 30 U.S.C. 1259(a) and W.Va. Code 22–3–11. W.Va. Code 22–3–11(a) requires that each permittee post a performance bond conditioned upon faithful performance of all the requirements of the WVSCMRA and the permit. W.Va. Code 22–3–11(c)(2) authorizes the Secretary of WVDEP to ''approve an alternative bonding system if it will: (A) Reasonably assure that sufficient funds will be available to complete the reclamation, restoration and abatement provisions for all permit areas which may be in default at any time; and (B) provide a substantial economic incentive for the permittee to comply with all reclamation provisions.'' The statutory requirements for a ''reclamation plan'' include the measures to be taken to assure the protection of water quality. *See* W.Va. Code 22–3–10.

A prudent approach to provide financial assurances for long-term treatment of pollutional discharges is to allow the permittee to establish a dedicated income-producing account, such as a trust fund or annuity or both, that is held by a third party as trustee for the regulatory authority. Neither trust funds nor annuities are specifically defined in WVSCMRA or SMCRA. However, we have previously recognized and approved trust funds as a form of collateral bond, as well as an alternative bonding mechanism. *See* 70 FR 25472 (May 13, 2005), amended at 70 FR 52916 (May 13, 2005); and 75 FR 48526 (August 10, 2010). In addition, trust funds and annuities are approved as options for bonding long-term pollutional discharges in Tennessee under our implemented Federal regulatory program. *See* 30 CFR 942.800(c).

Trust funds and annuities give the permittee a mechanism to generate a revenue stream to fund long-term treatment of pollutional discharges. *See* 72 FR 9615 (March 2, 2007). Under the provisions West Virginia proposes, the income stream from a fully funded trust fund or annuity will be used to fund treatment of postmining pollutional discharges (including maintenance, renovation, and replacement of treatment and support facilities as needed) and the reclamation of the sites upon which treatment facilities are located and areas used in support of those facilities. The trust fund or annuity will be employed in a manner to ensure final bond release is not permitted until all reclamation is completed and all pollutional discharges are eliminated or otherwise cease to exist. The provisions West Virginia has proposed are identical to those we promulgated for the Tennessee program at 30 CFR 942.780(c), with the exception of certain agency names and internal citations consistent with the existence and use of these trusts and annuities in West Virginia under the

approved West Virginia program. We have determined that West Virginia's addition of special consideration for sites with long-term postmining pollutional discharges is in accordance with the provisions of SMCRA and consistent with its implementing Federal regulations, and we approve of its addition.

a. CSR 38–2–11.4—Incremental Bonding. West Virginia proposes to amend this section to reflect the counterpart language found at 30 CFR 800.11.

OSMRE Findings: West Virginia's revised language is substantively identical to the Federal counterpart provisions of 30 CFR 800.11 that include incremental bonding. In its revision, West Virginia eliminates a prohibition in paragraph 11.4.a.2. that reads: ''Once the operator has chosen to proceed with bonding either the entire permit area or with incremental bonding, he shall continue bonding in that manner for the term of the permit.'' The provision sought to be removed from the West Virginia regulations is contained verbatim in W.Va. Code 22–3–11(a), which will remain in effect. This limitation binding the operator's decision to bond either the entire permit or by increments for the life of the permit is not in the Federal regulations or otherwise required under the Federal program. Removing this limitation from the West Virginia regulations does not render the proposal less effective than the Federal regulations. Therefore, we approve the revisions proposed in CSR 38–2–11.4.

b. CSR 38–2–11.6—Environmental Security Account for Water Quality— West Virginia is proposing the removal of subsection 11.6, which requires WVDEP to study the desirability of developing an environmental security account for water quality. Subdivisions (a) through (e) called for the inclusion of: (a) a screening process for determining which sites have the potential for producing acid mine drainage, (b) a process for predicting the rate and duration of acid mine drainage, (c) a method for estimating water treatment costs, (d) a system to ensure that sufficient monies will be placed in an escrow account to provide financial assurance that treatment will be accomplished and maintained, and (e) procedures to ensure the expenditure of funds from the escrow account in the event of default will provide water treatment. Furthermore, subdivision 11.6.f provides that after the study is completed, the Secretary of WVDEP may propose regulations to implement the environmental security account for water quality, but the regulations will not become effective until approved by the legislature. Subdivision 11.6.g provides that the Secretary of WVDEP will inform the legislature if statutory changes are necessary to implement an effective system for financial assurances. Subdivision 11.6.h provides that no changes proposed by this subsection shall authorize in any way the issuance of a permit in which acid mine drainage is anticipated and which would violate applicable effluent limitations or water quality standards without treatment. Because this study was completed, West Virginia is deleting this provision from its program.

OSMRE Findings: We approved these provisions as part of a decision on the solvency of West Virginia's alternative bonding system on October 4, 1995 (60 FR 51900). This provision required WVDEP to prepare a report and submit it to the West Virginia Legislature within 240 days so that options could be developed to ensure the solvency of West Virginia's alternative bonding system. The study, entitled ''Acid Mine Drainage Bond Forfeiture Report'' was completed and submitted to the West Virginia Legislature on December 31, 1993. This specific provision did not modify any duties or functions under the approved West Virginia program.

We determined that the development of an environmental security account for water quality could enhance the financial status of the State's special reclamation fund. We noted at the time that there was no correlating Federal provision and that any amendments to the program implemented as a result of the study would have to be approved by us. West Virginia completed the study and has taken various actions and approaches towards addressing the solvency of its alternative bonding system since that time.

The deletion of this specific provision will not have an adverse impact on the ability or the obligation of the West Virginia Alternative Bonding System to meet the criteria in 30 CFR 800.11(e), and we are approving its removal. The renumbering of remaining sections 38–2–11.7 to 38–2–11.6 is likewise approved. This finding does not express an opinion on the solvency or status of the State's alternative bonding systems.

4. CSR 38–2–12. Replacement, Release and Forfeiture of Bonds

a. CSR 38–2–12.2.a—West Virginia proposes to add, move, and revise language at CSR 38–2–12.2.a.3; 38–2–12.2.a.4; 38–2–12.2.a.4.A; and 38–2–12.2.a.4.B related to bond release. West Virginia proposes requiring, at paragraph 12.2.a.3, that the applicant provide a notarized statement certifying applicable reclamation activities have been accomplished. In addition, West Virginia proposes to restructure and revise existing language from CSR 38–2–12.2.e, e.1, and e.2 to proposed CSR 38–2–12.2.a.4, a.4.A, and a.4.B. Proposed CSR 38–2–12.2.a.4 maintains but modifies the limitation on the release or reduction of bond if water discharged from or affected by an operation requires chemical or passive treatment in order to comply with effluent limitations. West Virginia removed ''or water quality standards'' from the limitation along with other verbiage modifications. The revised language also modifies an existing prohibition to allow bond release to now be considered for Phases II and III on sites with a discharge requiring treatment so long as the remaining bond or other qualifying financial assurance is adequate to assure long term treatment. Currently, only Phase I bond release may be considered under these circumstances. As proposed, if the applicant demonstrates that the remaining bond is adequate to assure long term treatment or the operator has provided irrevocable financial assurances, WVDEP may approve and release the excess portions of the bond. The application must address, at a minimum, the current and projected quantity and quality of drainage to be treated, the anticipated duration of treatment, and the estimated capital and operating cost of the treatment facility, as well as the calculations that demonstrate the adequacy of the remaining bond or financial assurance. Proposed CSR 38–2–12.a.4.A makes no changes to existing CSR 38–2–12.e.1. Proposed CSR 38–2–12.a.4.B rephrases portions of existing CSR 38–2–12.e.1, adds references to the Federal and state statutes governing water quality treatment, removes a proviso that the alternate arrangement provides a mechanism by which WVDEP can assume the treatment work in the event of the operator's default, and deletes language stating that default on the treatment obligation ''shall be considered equivalent to a bond forfeiture,'' while retaining that default will subject the operator to penalties and sanctions, including permit blocking.

OSMRE Findings: CSR 38–2–12.2.a.3 is identical to the Federal provision at 30 CFR 800.40(a)(3), which requires certification of all reclamation activities, except West Virginia references ''the rules promulgated thereof'' instead of ''the regulatory program.'' This difference is merely editorial; therefore, we are approving this provision. CSR

38–2–12.2.a.4.A is identical to CSR 38–2–12.2.e.1 as we approved it in the July 24, 1996, **Federal Register** (61 FR 38382), and so we are approving its move.

The provisions at CSR 38–2–12.2.a.4 and 12.2.a.4.B include some revisions to the language we approved in the July 24, 1996, **Federal Register** (61 FR 38382). While moving the language, West Virginia has excised ''or water quality standards'' from the previously approved phrase ''effluent limitations or water quality standards.'' However, West Virginia's performance standards at CSR 38–2–14.5.b., both the existing version and after the revisions we are approving below, describe ''effluent limitations'' broadly, incorporating all applicable water quality laws and regulations. Therefore, we are approving this change.

Next, West Virginia revises the language of paragraph 12.2.a.4 to allow Phase II and Phase III bond release to be considered for sites with a discharge requiring treatment, where the existing paragraph only allows Phase I release. The two subparagraphs, 4.A and 4.B, allow release only when the remaining bond is adequate to assure long term treatment or the operator provides an irrevocable financial assurance adequate to provide long term treatment. This is consistent with our decisions approving treatment trusts and annuities in Pennsylvania, *see* 70 FR 25472, 25474 (May 13, 2005) (approving 52 P.S. 1396.4(g)(3) authorizing Phase III bond release when the operator has made provisions for ''the sound future treatment of pollutional discharges'' and other relevant requirements are met), and Tennessee, *see* 72 FR 9636, 9619, 9625–26 (March 2, 2007) (promulgating 30 CFR 942.800(c)(9) providing for the release of conventional bonds upon providing a fully-funded trust or annuity to provide for treatment and otherwise meeting reclamation requirements). However, in those approvals we explained that the release of conventional bonds cannot occur until the long-term irrevocable financial assurance is in place and fully funded and other reclamation obligations have been completed and that the remaining site required for treatment must remain bonded but the long-term financial assurance may act as that bond. We also explained that this action is a form of partial bond release in accordance with 30 CFR 800.40(c). West Virginia provides these requirements in the proposed regulations authorizing treatment trusts and annuities at CSR 38–2–11.3.f.8 and f.9, discussed and approved above. However, CSR 38–2–12.2.a.4 and a.4.B are not limited to trust funds and annuities. They apply generally to any irrevocable financial assurance in a form satisfactory to WVDEP, which could include, for example, a dedicated escrow account funded through monthly deposits, *see* CSR 38–2–11.3.e.2.B.1. West Virginia's escrow account provisions do not separately require the account to be fully funded before all phases of the bond may be released. The broader application of paragraph 12.2.a.4 and subparagraph a.4.B justify the two provisos, which West Virginia proposes to delete, that the arrangement allow for WVDEP's management of treatment in the event of default and that default ''shall be considered equivalent to a bond forfeiture.'' We did not expressly discuss those provisos when we initially approved them under CSR 38–2–12.2.e.2. *See* 61 FR 38382, 38384–85 (July 24, 1996). While these provisos might be redundant or unnecessary when the irrevocable financial assurance is a trust fund (where WVDEP is the trustee and the trust is not collected like a bond), they might be necessary where the financial assurance takes a different form, such as a dedicated escrow account, which is allowed to be funded in monthly installments and would require forfeiting upon default. The proposed revisions would leave financial security arrangements other than trust funds and annuities without a set of safeguards to ensure they are fully funded and that a permitted site remains. Therefore, the revisions would render the West Virginia program less effective than the Federal regulations concerning bond release at 30 CFR 800.40 and less stringent than the requirements of SMCRA. Therefore, we are approving the renumbering of, and revisions to, CSR 38–2–12.2.a.4 and a.4.B except the following: from subdivision 12.2.e, now paragraph 12.2.e.4, the deletion of the phrase ''Phase I but not Phase II or III'' from the last sentence; and from paragraph 12.2.e.2, now subparagraph 12.2.a.4.B, deletion of the proviso that the financial arrangement provide a mechanism whereby WVDEP can assume management of the resource and treatment work in the event of operator default, and deletion of the proviso that default is considered equivalent to a bond forfeiture. Our decision regarding these provisions does not affect our approval above of CSR 38–2–11.3.f.8 and f.9 related specifically to the release of conventional bonds where trust funds and annuities meet all applicable requirements.

b. CSR 38–2–12.2.c.—West Virginia proposes to modify its existing language in this section covering the release of bonds to make it substantively identical to the Federal regulations found at 30 CFR 800.40(c). West Virginia is revising language with respect to the WVDEP Secretary's authority to release all or part of the bond for the entire permit or incremental area if they are satisfied that all reclamation or a phase of the reclamation covered by the bond has been accomplished in accordance with the schedules for reclamation Phases I, II, and III. Through its restructured language, West Virginia has removed the specific limitations relevant to open-acre permit bonding (*i.e.,* that all coal extraction operations for the permit or increment thereof are completed and that the entire disturbed area for the permit or increment thereof has been completely backfilled and regraded before bond release), and moved the former prohibitions and requirements associated with bond release on sites with water discharges requiring treatment to the preceding section. In addition, West Virginia has eliminated the previously approved requirement that no violations exist relative to the permitted site before bond is released.

In its proposed revision of CSR 38–2–12.2.c.1, while mirroring the language of 30 CFR 800.40(c)(1), West Virginia eliminates specific references to compliance with the WVSCMRA, its implementing rules, and the terms and conditions of the permit, as well as a specific inclusive reference to the need to meet all requirements pertaining to maintaining the hydrologic balance before a Phase I bond release may occur.

In its proposed revision of CSR 38–2–12.2.c.2, West Virginia has eliminated the specified amount (25 percent) that is to be returned upon a Phase II bond release and has eliminated the minimum two-year waiting period after the last augmented seeding standards have been met before a Phase II bond release may occur. As a result of the modifications, the remaining subsections are renumbered.

In its proposed revision of CSR 38–2–12.2.c.3, West Virginia has adopted language from the Federal requirements pertaining to the conditions necessary for the release of a Phase III bond while excluding the requirement that ''all surface coal mining and reclamation activities'' be successfully completed before Phase III bond release. *See* 30 CFR 800.40(c)(3). West Virginia's proposal is that ''reclamation activities'' be complete before any such release.

OSMRE Findings: Through its restructured language, West Virginia looks to simplify and revise its existing provisions with respect to the release of bonds to more closely model Federal

language. However, West Virginia's approved program uses an alternative bonding system. This system requires extensive consideration of multiple interdependent factors in arriving at and maintaining a particular bond amount. Through its proposed restructured language, West Virginia is proposing the removal of the specific limitation relevant to open-acre bonding that all coal extraction operations for the permit or increment thereof are completed and that the entire disturbed area for the permit or increment thereof has been completely backfilled and regraded before bond release. In the original approval of this provision, we found: ''The State proposes to add new [subdivision 12.2.d] to prohibit the release of any portion of the bonds posted in accordance with subsection 11.5 (open-acre limit bonding) until all coal extraction operations are completed and the entire disturbed area has been completely backfilled and regraded. Because of the floating nature of this type of bond, this restriction is needed to provide a degree of protection consistent with other types of site-specific bond authorized under the alternative bonding system.'' 60 FR 51908 (October 4, 1995). Having previously found that these restrictions were necessary as part of the alternative bonding system, absent any rationale or alternative measures demonstrating why this provision is no longer necessary, we do not approve the change. Likewise, as discussed above, the restrictions regarding sites with water discharges are also relevant to bond release. Therefore, the existing introductory language ''except as provided in subdivisions 12.2.d and 12.2.e'' at CSR 38–2–12.2.c. is retained. We are approving an editorial correction that is necessary to correct the now changed reference from ''12.2.e'' to ''12.2.a.4.''

In its proposed revision of 38–2–12.2.c.1, West Virginia proposes the elimination of requirements to comply with ''the Act, this rule, and the terms and conditions of the permit'' as well as the elimination of the specific inclusive reference of the need to meet all requirements pertaining to maintaining the hydrologic balance before a Phase I bond release may occur. These references are eliminated in favor of the Federal language that requires compliance with the ''approved reclamation plan.'' Unlike the Federal regulations at 30 CFR 780.18, the approved West Virginia regulations do not include a specific provision defining the requirements of the ''reclamation plan.'' However, W.Va. Code 22–3–10 identifies the extensive requirements for a reclamation plan and requires them to be included ''in the degree of detail necessary to demonstrate that reclamation required by [WVSCMRA] can be accomplished.'' This provision of WVSCMRA remains in effect. When taken together, removal of the requirement references in this section of the West Virginia regulations in favor of the encompassing section of the WVSCMRA does not render the program less stringent than SMCRA or less effective than the Federal regulations. Therefore, we are approving the revisions proposed in 38–2–12.2.c.1.

With respect to the proposed revision of CSR 38–2–12.2.c.2, eliminating the specified amount (25 percent) that is to be returned upon a Phase II bond release, and CSR 38–2–12.2.c.2.A, eliminating the minimum two-year waiting period after the last augmented seeding before revegetation standards may be met for a Phase II bond release to occur, the Federal regulations neither specify an amount of bond to be released upon Phase II nor do they proscribe a time period for the determination that revegetation has been established for the purpose of Phase II bond release. Rather, the Federal regulations give the regulatory authority discretion to determine what amount of bonding is adequate to complete all required reclamation and to determine when successful revegetation has been established. *See* 30 CFR 800.40(c)(2); *see also* 48 FR 32932, 32953 (July 19, 1983) (removing a 25 percent Phase II maximum bond release from the Federal regulations at 30 CFR 800.40(c)(2)). As we note in our findings above about revision to CSR 9.3.d, the two-year requirement was more stringent than the Federal requirements, which contain no direct counterpart. The remaining provisions direct the standards of revegetation and obligate WVDEP to inspect and determine whether those standards are met. Therefore, we approve of those revisions because they are no less effective than the Federal regulations. We also approve of the renumbering of subparagraphs in CSR 38–2–12.2.c.2. We note separately that West Virginia has also proposed to remove the 25 percent Phase II maximum bond release from its statutes at W.Va. Code 22–3–23(c)(1)(B). We have not yet acted on that program amendment, docketed at WV–125–FOR and published as proposed in the April 8, 2019, **Federal Register** (84 FR 13853), but that has no effect on our approval of the instant revision deleting that requirement from the regulations.

In its proposed revision of CSR 38–2–12.2.c.3, West Virginia proposes to adopt some of the language from the Federal requirements pertaining to the conditions necessary before the release of all or part of a Phase III bond while excluding the requirement that ''all surface coal mining and reclamation activities'' be successfully completed. Instead, West Virginia proposes only that ''successful reclamation activities'' be completed as a condition precedent to any Phase III bond release. However, W.Va. Code 22–3–23, both before and after the revisions West Virginia proposes under WV–125–FOR, contains the full language ''all surface coal mining and reclamation activities.'' Despite the omission of ''surface coal mining'' in West Virginia's proposed regulation, its statutory inclusion of ''all surface coal mining and reclamation activities'' will control how West Virginia implements the regulation. Therefore, we are approving the proposed change because it is not less effective than the Federal regulations.

c. CSR 38–2–12.2.d.—West Virginia proposes to eliminate the existing prohibition on bond release for any site-specific bonding (*i.e.,* open-acre bonding) until all coal extraction is completed and the disturbed area is completely backfilled and regraded.

OSMRE Findings: As noted in our finding 4.b. above, having previously found that these restrictions were necessary as part of the alternative bonding system, absent there being any rationale or alternative measures provided demonstrating why this provision is no longer necessary, we do not approve the removal of existing CSR 38–2–12.2.d, and the existing language is retained.

d. CSR 38–2–12.2.e.—West Virginia proposes to restructure and revise existing approved language in this section and move it to *38–2–12.2.a.4.*

OSMRE Findings: As is set forth above in our finding 4.a., the proposed revisions to this language are not approved, and, therefore, the existing language in CSR 38–2–12.2.e is retained.

e. CSR 38–2–12.2.f.—West Virginia proposes to move, unchanged, this existing language to CSR 38–2–12.2.d. as a result of other proposed revisions.

OSMRE Findings: As is set forth above in this document, we did not approve the proposed revisions to CSR 38–2–12.2.d, which affected the renumbering of this provision; thus, we are also not approving the proposed movement of this language to CSR 38–2–12.2.d. The existing language in CSR 38–2–12.2.f is retained.

f. CSR 38–2–12.2.g.—West Virginia proposes to move, unchanged, this existing language to CSR 38–2–12.2.f as a result of other proposed revisions.

West Virginia also proposes to include a new provision for CSR 38–2–12.2.g, anticipating the aforementioned move, outlining the Secretary's authority to conduct a hearing on objections.

OSMRE Findings: As is set forth above in this document, we did not approve the proposed revisions, which affected the renumbering of this existing provision. Therefore, we are not approving the proposed movement of existing language to CSR 38–2–12.2.f, and the existing language in CSR 38–2–12.2.g is retained. We are, however, approving West Virginia's additional language outlining the Secretary's authority in conducting a hearing on objections to bond release, which mirrors the Federal counterpart at 30 CFR 800.40(g). We also approve of an editorial correction that is necessary to correct the now changed reference from ''12.2.f'' to ''12.2.g'' or ''this paragraph''.

g. CSR 38–2–12.2.h.—Without change to the existing language, West Virginia proposes to both renumber existing CSR 38–2–12.2.h to 12.2.i and to insert it as a new CSR 38–2–12.2.h.

OSMRE Findings: As is set forth above in this document, we did not approve the proposed revisions, which affected the renumbering of this existing provision. Therefore, the proposed renumbering of this section to CSR 38–2–12.2.i is not necessary and would result in duplicative sections, and we are not approving these revisions. The existing language in CSR 38–2–12.2.h is retained.

h. CSR 38–2–12.4.a.2.B.—In its section dealing with the forfeiture of bonds, West Virginia proposes to add and delete language in this section to make it substantively identical to the Federal regulations found at 30 CFR 800.50. West Virginia is proposing to revise CSR 38–2–12.4.a.2.B to include a specific reference to the exception that allows the Secretary to approve partial surety liability release.

OSMRE Findings: The inclusion of the reference to the exception mirrors the Federal regulations at 30 CFR 800.50(a)(2)(ii). The additional reference and rephrasing do not render the proposal less effective than the Federal regulations, and we therefore approve these revisions.

i. CSR 38–2–12.4.b.—In this section, West Virginia is proposing to revise and eliminate specific references to the purposes that bond proceeds should be used for upon forfeiture, including rules governing water quality. In revised CSR 38–2–12.4.b.1 and 12.4.b.2, West Virginia incorporates and adopts language mirroring 30 CFR 800.50(b)(1) and (2), which identifies the steps to be undertaken upon forfeiture and the authorized use of those funds for completing the reclamation plan, or portion thereof, on the permit area or increment to which the bond coverage applies.

OSMRE Findings: In CSR 38–2–12.4.b, 4.b.1, and 4.b.2, West Virginia proposes to incorporate and adopt language mirroring that of the Federal regulations. While the inclusion of references to specific provisions pertaining to water quality have been removed in the revision of this subsection to mirror the Federal counterparts, the obligations of the West Virginia program to require adequate financial assurance for the treatment of pollution discharges and to use those funds upon forfeiture to complete the reclamation plan, as that requirement is set forth in W.Va. Code 22–3–10, including requirements related to water quality, have not been altered or removed. We are approving these provisions because the requirements to satisfy obligations related to water quality remain in place.

j. CSR 38–2–12.4.c.—In this section, West Virginia revises existing language to incorporate and adopt language identical to 30 CFR 800.50(c) further identifying measures the Secretary of WVDEP may take upon forfeiture. The revision eliminates an existing 180-day window for initiating operations to reclaim the site in accordance with the approved reclamation plan or modification thereof. The revised provision also removes the specific inclusion of taking the most effective actions possible to remediate acid mine drainage from the site, including chemical treatment where appropriate, with the resources available.

OSMRE Findings: In CSR 38–2–12.4.c, the proposed revision mirrors the Federal regulations, which do not include a specific time frame for initiating reclamation operations or a specific reference to actions related to the treatment of acid mine drainage. However, West Virginia uses an approved alternative bond system that is designed to achieve the objectives and purposes of section 509 of SMCRA as implemented by 30 CFR 800.11(e)(1). As noted previously, West Virginia's Special Reclamation Fund has been the subject of amendments, some required by us, imposed to address inadequacies of the system, to eliminate the deficit in the State's alternative bonding system, to ensure that sufficient money will be available to complete reclamation, including the treatment of polluted water discharged from all bond forfeiture sites, and to specify that moneys from the Special Reclamation Fund must be used, where needed, to pay for water treatment on bond forfeiture sites. These amendments were approved, and required amendments removed, in part, based upon the revisions made to W.Va. Code 22–3–11 and this section of the regulations. *See, e.g.,* 60 FR 51900 (Oct. 4, 1995); 66 FR 67446 (Dec. 28, 2001); and 67 FR 37610 (May 29, 2002).

Section 509(c) of SMCRA and 30 CFR 800.11(e) both imply that the funds held for reclamation must be readily available. Specifically, 30 CFR 800.11(e)(1) specifies that an alternative bonding system must ensure that ''the regulatory authority will have sufficient money to complete the reclamation plan for any areas which may be in default at any time.'' Through our past approvals, we have expressed reservations about the notion of prioritizing bond forfeited sites insofar as it could imply deviating from the requirements of 30 CFR 800.11(e)(1). However, relying upon the State's regulations at CSR 38–2–12.4(c), which provide that reclamation operations must be initiated within 180 days following final forfeiture notice, we found assurance that the requirement that all sites for which bonds are posted be reclaimed in accordance with their reclamation plans and that all sites for which bonds were posted be properly and timely reclaimed would be fulfilled. *See* 60 FR 51900, 51901 (Oct. 4, 1995) and 67 FR 37610, 37616 (May 29, 2002). The removal of this timing provision would nullify previous corrections to the program and would render the program less effective than the bond forfeiture provisions at section 509(a) of SMCRA and 30 CFR 800.50(b)(2), or the alternative bonding system criteria of 30 CFR 800.11(e). Therefore, we are not approving this revision, and the existing language at CSR 38–2–12.4.c is retained.

k. CSR 38–2–12.4.d—In this section, West Virginia revises existing language to incorporate and adopt language substantively similar to that of 30 CFR 800.50(d), identifying procedures to follow when the amount forfeited is insufficient to pay the full cost of reclamation. Specifically, West Virginia proposes to provide that the Secretary will make expenditures out of the Special Reclamation Fund to complete the reclamation of the bonded area and that the Secretary may recover all costs of reclamation in excess of the amount forfeited from the operator or permittee. The revision excludes the specific reference to the statement that the Secretary of WVDEP shall take the most effective actions possible to remediate acid mine drainage from the site, including chemical treatment where

appropriate, with the resources available.

OSMRE Findings: The revised language incorporates and adopts language substantively similar to that of 30 CFR 800.50(d), modifying it to reflect West Virginia's use of an alternative bonding system, the Special Reclamation Fund. Although the revision of this subsection excludes the specific reference to the statement that the Secretary shall take the most effective actions possible to remediate acid mine drainage from the site, including chemical treatment where appropriate, with the resources available, the West Virginia Code 22–3–11(h)(2) contains such an instruction, and the obligations of the West Virginia program to timely reclaim forfeited sites, including remediating acid mine drainage, has not been altered or removed. Therefore, we approve this revision.

5. CSR 38–2–12.5—Water Quality Enhancement

West Virginia proposes to delete subsection 12.5 of the West Virginia regulations, which directs WVDEP's collection, analysis, and reporting on sites where a bond has been forfeited including, in particular, data relating to the quality of water being discharged from forfeited sites. Subdivision 12.5.a requires the Secretary of WVDEP to establish an inventory of all sites for which bonds have been forfeited. The inventory is to include data relating to the quality of water being discharged from the sites. Subdivision 12.5.b requires a priority listing of these sites based upon the severity of the discharges, the quality of the receiving stream, effects on downstream water users, and other factors determined to affect the priority ranking. Subdivision 12.5.c provides that, until the legislature supplements or adjusts the special reclamation fund, the Secretary of WVDEP can selectively choose sites from the inventory for water quality enhancement projects. Subdivision 12.5.d provides that, in selecting sites for water improvement projects, the Secretary of WVDEP must consider relative benefits and costs of the projects. Subdivision 12.5.e requires the Secretary of WVDEP to submit to the legislature, on an annual basis, a detailed report and inventory of acid mine drainage from bond forfeiture sites.

OSMRE Findings: This provision was originally added to the West Virginia regulations in 1995 to implement W.Va. Code 22–3–11(g), which authorizes WVDEP's actions with respect to bond forfeitures. There is no companion Federal regulation because West Virginia uses an approved alternative bond system that is designed to achieve the objectives and purposes of section 509 of SMCRA as implemented by 30 CFR 800.11(e)(1). As noted previously, the Special Reclamation Fund has been the subject of various amendments, some required by us, imposed to address inadequacies of the system, to eliminate the deficit in the State's alternative bonding system, and to ensure that sufficient money will be available to complete reclamation. This obligation includes the treatment of polluted water discharged from all bond forfeiture sites and a requirement that moneys from the Special Reclamation Fund must be used, where needed, to pay for water treatment on bond forfeiture sites. These amendments were approved, and required amendments removed, in part, based upon the revisions made to W.Va. Code 22–3–11 and this section of the regulations. *See, e.g.,* 60 FR 51900 (Oct. 4, 1995); 66 FR 67446 (Dec. 28, 2001); and 67 FR 37610 (May 29, 2002).

An important component of our approval of the required amendments was the fact that West Virginia had previously established, at W.Va. Code 22–1–17, the Special Reclamation Fund Advisory Council (Advisory Council) to oversee the State's alternative bonding system. One of the duties of the Advisory Council is to study the effectiveness, efficiency, and financial stability of the Special Reclamation Fund and the Special Reclamation Water Trust Fund. These funds are managed by the Office of Special Reclamation (OSR) under the Advisory Council. The OSR adjusts monies to pay for water treatment at bond forfeiture sites and ensures that the Fund is effectively used by approval of the Advisory Council. The Special Reclamation Fund is adjusted to pay for reclamation of forfeiture sites. The Secretary of WVDEP provides recommendations on how best to effectively ensure acid mine drainage is addressed in reports to the Legislature.

Another duty of the Advisory Council, as provided by W.Va. Code 22–1–17(f)(5), is to contract with a qualified actuary on a regular basis to determine the Fund's fiscal soundness and to conduct annual informal reviews of the Special Reclamation Fund. The actuarial studies and the annual informal financial reviews of the Special Reclamation Fund assist WVDEP and the State in ensuring that sufficient money will be available to complete land reclamation and water treatment at existing and future bond forfeiture sites within the State, a requirement that parallels the criterion for approval of a State's alternative bonding system under 30 CFR 800.11(e)(1).

A necessary component of the ability to conduct these studies, and to fulfill the requirements of the alternative bond system itself, is the compilation of data as is directed under existing CSR 38–2–12.5.a. Removing the requirement to maintain an inventory would impede successful analysis as is required under the West Virginia Code and implementing regulations and would thwart the efforts put in place to address the required amendments. Therefore, removal would render the program less effective than the Federal requirements, and we do not approve of its removal. The existing language of CSR 38–2–12.5.a is retained.

Section 509(c) of SMCRA and 30 CFR 800.11(e) are silent on the question of prioritizing bond forfeited sites for reclamation, but both imply that the funds held for reclamation must be readily available. Specifically, 30 CFR 800.11(e)(1) specifies that an alternative bonding system must ensure that ''the regulatory authority will have sufficient money to complete the reclamation plan for any areas which may be in default at any time.'' Through our past approvals, we have expressed reservations about the notion of prioritization insofar as it could imply deviating from the requirements of 30 CFR 800.11(e)(1). However, because the State's regulations at CSR 38–2–12.4.c provide that reclamation operations must be initiated within 180 days following final forfeiture notice, a planning process for selection and prioritization of sites to be reclaimed was determined to not adversely impact the requirement that all sites for which bonds are posted be reclaimed in accordance with their reclamation plans, and that all sites for which bonds were posted be properly and timely reclaimed. Therefore, the removal of the prioritization language proposed in CSR 38–2–12.5.b; 38–2–12.5.c; and 38–2–12.5.d is consistent with the bond forfeiture provisions at section 509(a) of SMCRA and 30 CFR 800.50(b)(2), or the alternative bonding system criteria of 30 CFR 800.11(e), and we approve of its removal. *See also* 60 FR 51901 (Oct. 4, 1995).

As addressed above in our disapproval in CSR 38–2–12.5.a, a necessary component of the ability to fulfill the requirements of the alternative bond system is the compilation, review, and reporting of relevant data on a regular basis. West Virginia Code requires no less. *See* W.Va. Code 22–3–11 and 22–1–17. The specifics of the report as directed in

existing CSR 38–2–12.5.e provide implementing details consistent with the requirements established in the West Virginia Code. Removing the minimum details to be contained in the report and inventory would impede successful analysis as is required under the West Virginia Code and implementing regulations and would thwart the efforts put in place to address the previous required amendments. Removal, without any indication of replacement, would render the program less effective than the Federal requirements, and we do not approve of its removal. The existing language of CSR 38–2–12.5.e is retained and may be renumbered accordingly in response to the approved removals in this section.

6. CSR 38–2–14—Performance Standards

38–2–14.5.b—Effluent Limitations— West Virginia proposes to revise language in this subdivision to make it identical to the Federal regulations found at 30 CFR 816.42. West Virginia removes a reference to ''the standards set forth in [National Pollutant Discharge Elimination System (NPDES)] permits'' and the authorizing statutes for those permits, replacing these references with the requirement to be in compliance with all applicable State and Federal water quality laws and regulations, including effluent limitations for coal mining promulgated by the U.S. Environmental Protection Agency.

OSMRE Findings: The revised language mirrors the counterpart Federal provision. By mirroring the Federal provision, the revised subdivision becomes more comprehensive in scope, incorporating the NPDES standards despite removing the specific reference. Therefore, revised subdivision 14.5.b is no less effective than the Federal counterpart regulation at 30 CFR 816.42, and we approve the revision.

IV. Summary and Disposition of Comments

Public Comments

We asked for public comments on the WV–118 amendment in the proposed rule notice published in the November 2, 2011, **Federal Register** (76 FR 67637). We did not receive any comments.

We asked for public comments on the WV–126 amendment in the proposed rule notice published in the February 14, 2020, **Federal Register** (85 FR 8497). We received one comment. This comment is summarized and addressed below.

The commenter stated that they live in the southern part of West Virginia and rely on the legal advertisements in their local newspaper for the opportunity to participate in the permitting process on surface mining operations near their local residence. The commenter noted that not all citizens residing in West Virginia have the ways or means to access internet services and that to a person on a fixed income buying a local newspaper is less costly than obtaining internet service. They believe that by not advertising in the local newspaper people will be at a disadvantage to participate in the permitting process.

OSMRE Response: We are disapproving revisions to W.Va. Code 22–3–9 and 22–3–20 based on the fact that the proposed amendment is less stringent than sections 507(b)(6) and 513 of SMCRA (30 U.S.C. 1257(b)(6) and 1263) and less effective than the Federal regulation at 30 CFR 773.6, which specifically requires that permit applications, significant revisions, or renewal of a permit shall be announced in an advertisement in a local newspaper of general circulation in the locality of the mining and reclamation operation at least once a week for four consecutive weeks.

Federal Agency Comments

On March 5, 2020, under 30 CFR 732.17(h)(11)(i) and section 503(b) of SMCRA, we requested comments on the amendment from various Federal agencies with an actual or potential interest in West Virginia amendment WV–126 (Administrative Record No. WV–1634). We did not receive any comments.

On September 22, 2011, we requested comments on the amendment from various Federal agencies with an actual or potential interest in West Virginia amendment WV–118 (Administrative Record No. WV–1570). We did not receive any comments.

Environmental Protection Agency (EPA) Concurrence and Comments

Under 30 CFR 732.17(h)(11)(ii), we are required to get a written concurrence from EPA for those provisions of the program amendments that relate to air or water quality standards issued under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*). The only change related to water standards is to change WVDEP's regulation to mirror the Federal regulation, which has already received concurrence from EPA. Therefore, we did not ask EPA to concur on the amendment.

State Historic Preservation Office (SHPO) and the Advisory Council on Historic Preservation (ACHP)

Under 30 CFR 732.17(h)(4), we are required to request comments from the SHPO and ACHP on amendments that may have an effect on historic properties. On March 5, 2020, we requested comments on West Virginia amendment WV–126 (Administrative Record No.WV–1634). We did not receive comments from the SHPO or ACHP.

On September 22, 2011, we requested comments on the West Virginia amendment WV–118 (Administrative Record Numbers WV–1570). We did not receive comments from the SHPO or ACHP.

V. OSMRE's Decision

Based on the above findings:

1. We are approving in part the amendment (WV–126) that West Virginia sent to us on May 2, 2018 (Administrative Record No. WV–1613–A and WV–1613–B).

2. We are not approving revisions to W.Va. Code 22–3–9 and 22–3–20 because the proposed revisions render the West Virginia program less stringent than sections 507(b)(6) and 513 of SMCRA (30 U.S.C. 1257(b)(6) and 1263) and less effective than the corresponding Federal regulation at 30 CFR 773.6, which require that permit applications, significant revisions, or renewal of a permit must be announced in an advertisement in a local newspaper of general circulation in the locality of the mining and reclamation operation at least once a week for four consecutive weeks.

3. We are not approving CSR 38–2–12.2.d, .e, .f, .g and .h, the elimination of the existing prohibition on bond release for any site specific bonding (*i.e.,* open-acre bonding) until all coal extraction is completed and the disturbed area is completely backfilled and regraded because these restrictions were necessary as part of the alternative bonding system, absent there being any rationale or alternative measures provided demonstrating why this provision is no longer necessary. We are also not approving *CSR 38–2–12.4.c,* which would eliminate an existing 180-day window for initiating reclamation operations to reclaim a site in accordance with the approved reclamation plan or modification thereof. The removal of this timing provision would nullify previous corrections to the program and would render the West Virginia program less effective than the bond forfeiture provisions at section 509(a) of SMCRA

and 30 CFR 800.50(b)(2), or the alternative bonding system criteria of 30 CFR 800.11(e). In addition, we are not approving proposed changes to CSR 38–2–12.5, which includes the deletion of subsection 12.5 of the West Virginia regulations that directs WVDEP's collection, analysis, and reporting on sites where bond has been forfeited, including, in particular, data relating to the quality of water being discharged from forfeited sites. Removal, without any indication of replacement, would render the West Virginia program less effective than the Federal requirements.

4. We are approving the changes to CSR 38–2–11.3.f (WV–118) sent to us on April 25, 2011 (Administrative Record Number WV–1561), pertaining to financial assurance requirements (trust funds).

To implement this decision, we are amending the Federal regulations at 30 CFR part 948 that codify decisions concerning the West Virginia program. In accordance with the Administrative Procedure Act, this rule will take effect 30 days after the date of publication.

VI. Statutory and Executive Order Reviews

Executive Order 12630—Governmental Actions and Interference With Constitutionally Protected Property Rights

This rule would not affect a taking of private property or otherwise have taking implications that would result in public property being taken for government use without just compensation under the law. Therefore, a takings implication assessment is not required. This determination is based on an analysis of the corresponding Federal regulations.

Executive Orders 12866—Regulatory Planning and Review, 13563—Improving Regulation and Regulatory Review, and 14094—Modernizing Regulatory Review

Executive Order 12866, as amended by Executive Order 14094, provides that the Office of Information and Regulatory Affairs in the Office of Management and Budget (OMB) will review all significant rules. Pursuant to OMB guidance, dated October 12, 1993, the approval of State program amendments is exempted from OMB review under Executive Order 12866, as amended by Executive Order 14094. Executive Order 13563, which reaffirms and supplements Executive Order 12866, retains this exemption.

Executive Order 12988—Civil Justice Reform

The Department of the Interior has reviewed this rule as required by Section 3 of Executive Order 12988. The Department determined that this **Federal Register** document meets the criteria of Section 3 of Executive Order 12988, which is intended to ensure that the agency review its legislation and proposed regulations to eliminate drafting errors and ambiguity; that the agency write its legislation and regulations to minimize litigation; and that the agency's legislation and regulations provide a clear legal standard for affected conduct rather than a general standard, and promote simplification and burden reduction. Because Section 3 focuses on the quality of Federal legislation and regulations, the Department limited its review under this Executive order to the quality of this **Federal Register** document and to changes to the Federal regulations. The review under this Executive order did not extend to the language of the State regulatory program or to the program amendment that West Virginia drafted.

Executive Order 13132—Federalism

This rule has potential Federalism implications as defined under section 1(a) of Executive Order 13132. Executive Order 13132 directs agencies to ''grant the States the maximum administrative discretion possible'' with respect to Federal statutes and regulations administered by the States. West Virginia, through its approved regulatory program, implements and administers SMCRA and its implementing regulations at the State level. This rule approves, in part, an amendment to the West Virginia program submitted and drafted by the State and disapproves elements of the amendment only to the extent necessary to ensure that the State program is ''in accordance with'' the requirements of SMCRA and ''consistent with'' the regulations issued by the Secretary pursuant to SMCRA. Therefore, this rule is consistent with the direction to provide maximum administrative discretion to States.

Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

The Department of the Interior strives to strengthen its government-to-government relationship with Tribes through a commitment to consultation with Tribes and recognition of their right to self-governance and Tribal sovereignty. We have evaluated this rule under the Department's consultation policy and under the criteria in Executive Order 13175 and have determined that it has no substantial direct effects on the distribution of power and responsibilities between the Federal Government and Tribes. The basis for this determination is that our decision on the West Virginia program does not include Indian lands, as defined by SMCRA, or regulation of activities on Indian lands. Indian lands are regulated independently under the applicable approved Federal program. The Department's consultation policy also acknowledges that our rules may have Tribal implications where the State proposing the amendment encompasses ancestral lands in areas with mineable coal. We are currently working to identify and engage appropriate Tribal stakeholders to devise a constructive approach for consulting on these amendments.

Executive Order 13211—Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

Executive Order 13211 requires agencies to prepare a Statement of Energy Effects for a rulemaking that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not a significant energy action under the definition in Executive Order 13211, a Statement of Energy Effects is not required.

Executive Order 13045—Protection of Children From Environmental Health Risks and Safety Risks

This rule is not subject to Executive Order 13045 because this is not an economically significant regulatory action as defined by Executive Order 12866; and this action does not address environmental health or safety risks disproportionately affecting children.

National Environmental Policy Act

Consistent with sections 501(a) and 702(d) of SMCRA (30 U.S.C. 1251(a) and 1292(d)) and the U.S. Department of the Interior Departmental Manual, part 516, section 13.5(A), State program amendments are not major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 3701 *et seq.*) directs OSMRE to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. (OMB Circular

A–119 at p. 14). This action is not subject to the requirements of section 12(d) of the NTTAA because application of those requirements would be inconsistent with SMCRA.

Paperwork Reduction Act

This rule does not include requests and requirements of an individual, partnership, or corporation to obtain information and report it to a Federal agency. As this rule does not contain information collection requirements, a submission to the Secretary of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) is not required.

Regulatory Flexibility Act

This rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal, which is the subject of this rule, is based upon corresponding Federal regulations for which an economic analysis was prepared, and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the corresponding Federal regulations.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: (a) does not have an annual effect on the economy of $100 million; (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) does 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. This determination is based on an analysis of the corresponding Federal regulations, which were determined not to constitute a major rule.

Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or Tribal governments, or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local, or Tribal governments or the private sector. This determination is based on an analysis of the corresponding Federal regulations, which were determined not to impose an unfunded mandate. Therefore, a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

List of Subjects in 30 CFR Part 948

Intergovernmental relations, Surface mining, Underground mining.

Thomas D. Shope,

Regional Director, North Atlantic—Appalachian Region.

For the reasons stated in the preamble, the Office of Surface Mining Reclamation and Enforcement amends 30 CFR part 948 as set forth below:

PART 948—WEST VIRGINIA

■ 1. The authority citation for part 948 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

■ 2. Section 948.12 is amended by revising paragraph (k) to read as follows:

§ 948.12 State statutory, regulatory, and proposed program amendment provisions not approved.

* * * * *

(k) We are not approving the following provisions of the proposed West Virginia program amendments dated May 2, 2018:

(1) At W.Va. Code 22–3–9, revisions substituting notice by newspaper with notice in a form and manner determined by the Secretary which may be electronic.

(2) At W.Va. Code 22–3–20, revisions substituting notice by newspaper with notice in a form and manner determined by the Secretary which may be electronic.

(3) At CSR 38–2–2.37, the removal of the definition ''completion of reclamation''

(4) At CSR 38–2–12.2.d., the elimination to the existing prohibition on bond release for any site specific bonding (*i.e.,* open-acre bonding) until all coal extraction is completed and the disturbed area is completely backfilled and regraded.

(5) At CSR 38–2–12.2.e., to restructure and revise existing approved language in this section and move it to CSR 38–2–12.2.a.4.

(6) At CSR 38–2–12.2.f., to move, unchanged, this existing language to CSR 38–2–12.2.d

(7) At CSR 38–2–12.2.g., to move, unchanged, this existing language to CSR 38–2–12.2.f.

(8) At CSR 38–2–12.2.h., to renumber existing CSR 38–2–12.2.h to 12.2.i. and to insert it as a new CSR 38–2–12.2.h.

(9) At CSR 38–2–12.4.c., to eliminate an existing 180 day window for initiating reclamation operations to reclaim the site in accordance with the approved reclamation plan or modification thereof.

(10) At CSR 38–2–12.5., to delete subsection 12.5 of the West Virginia regulations, which directs WVDEP's collection, analysis and reporting on sites where bond has been forfeited including, in particular, data relating to the water quality of water being discharged from forfeited sites.

■ 3. Section 948.15 is amended by adding a new entry to the table in chronological order by ''Date of publication of final rule'' to read as follows:

§ 948.15 Approval of West Virginia regulatory program amendments.

* * * * *

Original amendment submission dates	Date of publication of final rule	Citation/description of approved provisions
* *	*	* * * * *
April 25, 2011, May 8, 2018	March 18, 2024	CSR 38–2–2.6; 9.3.d; 11.3.f; 11.4; 11.6; 12.2.a, 12.5.b, and .c; 12.4.a.2.B, 12.4.b, 4.b.1 and 4.b.2; 12.4.d; 14.5.b.

[FR Doc. 2024–05682 Filed 3–15–24; 8:45 am]

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Copyright Royalty Board

37 CFR Part 385

[Docket No. 21–CRB–0001–PR (2023–2027)]

Determination of Royalty Rates and Terms for Making and Distributing Phonorecords (Phonorecords IV); Corrections

AGENCY: Copyright Royalty Board, Library of Congress.

ACTION: Correcting amendment.

SUMMARY: On December 30, 2022, the Copyright Royalty Judges revised regulations. This document corrects the final regulations to add capitalization to certain defined terms and to correct a term regarding late fees.

DATES: *Effective date:* March 18, 2024.

Applicability Date: These terms are applicable during the period from January 1, 2023, through December 31, 2027.

ADDRESSES: For access to the docket to read submitted background documents go to eCRB at *https://app.crb.gov/* and search for docket number 21–CRB–0001–PR (2023–2027).

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

SUPPLEMENTARY INFORMATION: This document corrects terms in the Final Regulations section of the final rule and order document published in the **Federal Register** on December 30, 2022 (87 FR 80448).

On January 10, 2023, Spotify USA Inc., Amazon.com Services LLC, Google LLC, Pandora Media, LLC, and Apple Inc. (collectively, the ''Movants'') filed a motion requesting that the Copyright Royalty Judges (Judges) issue amendments to their Determination of Royalty Rates and Terms for Making and Distributing Phonorecords, 87 FR 80448 (Dec. 30, 2022) (*Phonorecords IV* Determination). Motion to Request Issuance of Amendment to Determination . . . (Motion). The relevant regulations for which amendments are sought are the result of a settlement in the *Phonorecords IV* proceeding. The Movants noted that National Music Publishers' Association, Inc., and the Nashville Songwriters Association International, who were participants in the *Phonorecords IV* proceeding, consent to the requested relief. Motion at 1. No participant in the *Phonorecords IV* proceeding opposed the Motion.

The Movants stated that 37 CFR 385.3 currently provides that late fees should accrue from the date payment is due until payment is received by the Copyright Owner. However, the Movants stated that the language thus does not acknowledge that the Mechanical Licensing Collective has responsibility for collecting payment under the blanket license for digital uses (though payment remains owed to Copyright Owners for non-blanket license uses). The Movants therefore proposed amendments to 37 CFR 385.3 (reflected below) that would clarify that, where payment is due to the Mechanical Licensing Collective under 17 U.S.C. 115(d)(4)(A)(i), late fees shall accrue from the due date until the Mechanical Licensing Collective receives payment. *Id.* at 1–2.

The Movants also requested that certain capitalization be employed where three defined terms are used in 37 CFR 385.2(d). *Id.* at 2.

The Movants asserted that the amendments are proper because they correct technical errors or modify terms (not rates) of royalty payments that might otherwise frustrate the proper implementation of the *Phonorecords IV* Determination. *Id.* at 1, citing 17 U.S.C. 803(c)(4).

Section 803(c)(4) of the Copyright Act authorizes the Judges to issue amendments to a written determination to correct any technical or clerical errors in the determination or to modify the terms, but not the rates, of royalty payments in response to unforeseen circumstances that would frustrate the proper implementation of such determination. The Judges find good cause to adopt the modified language and find that the requested amendments are sufficiently technical in nature and therefore adopt the amendments pursuant to the Judges' authority under section 803(c)(4) of the Copyright Act.

With regard to the requested amendments to 37 CFR 385.3, the Judges separately find that the requested modifications to the terms but not the rates of royalty payments are in response to unforeseen circumstances that would frustrate the proper implementation of the *Phonorecords IV* Determination. The passage of the Music Modernization Act and the resulting establishment of the Mechanical Licensing Collective is a relatively recent development. The Judges find that these developments, although in existence at the time of the *Phonorecords IV* Determination, were unforeseen by the Settling Parties as they arrived upon and submitted the settlement in *Phonorecords IV*.[1] Furthermore, the Judges find that the amendments fulfill the intention of the *Phonorecords IV* Determination to fully recognize the role of the Mechanical Licensing Collective, and of the Settling Parties, to apply late fees where payment is due to the Mechanical Licensing Collective.

List of Subjects in 37 CFR Part 385

Copyright, Phonorecords, Recordings.

Accordingly, 37 CFR part 385 is corrected by making the following correcting amendments:

PART 385—RATES AND TERMS FOR USE OF NONDRAMATIC MUSICAL WORKS IN THE MAKING AND DISTRIBUTING OF PHYSICAL AND DIGITAL PHONORECORDS

■ 1. The authority citation for part 385 continues to read as follows:

Authority: 17 U.S.C. 115, 801(b)(1), 804(b)(4).

■ 2. Revise § 385.3 to read as follows:

§ 385.3 Late payments.

A Licensee shall pay a late fee of 1.5% per month, or the highest lawful rate, whichever is lower, for any payment owed to a Copyright Owner and remaining unpaid after the due date established in 17 U.S.C. 115(c)(2)(I) or 17 U.S.C. 115(d)(4)(A)(i), as applicable and detailed in part 210 of this title. Late fees shall accrue from the due date until the Copyright Owner receives payment, except that where payment is due to the mechanical licensing collective under 17 U.S.C. 115(d)(4)(A)(i), late fees shall accrue from the due date until the mechanical licensing collective receives payment.

■ 3. In § 385.21, revise the headings of paragraphs (d)(1) through (d)(3) to read as follows:

§ 385.21 Royalty rates and calculations.

* * * * *

(d) * * *

(1) *Standalone Non-Portable Subscription Offerings—Streaming Only.* * * *

(2) *Standalone Non-Portable Subscription Offerings—Mixed.* * * *

(3) *Standalone Portable Subscription Offerings.* * * *

* * * * *

[1] The Settling Parties who arrived upon the relevant portions of the regulations are comprised of the Movants on the one hand, and the National Music Publishers' Association, Inc., and the Nashville Songwriters Association International on the other hand, who consent to the requested relief. See 87 FR 80448 n.2.

Dated: February 6, 2024.

David P. Shaw,

Chief Copyright Royalty Judge.

David R. Strickler,

Copyright Royalty Judge.

Steve Ruwe,

Copyright Royalty Judge.

Approved by:

Carla D. Hayden,

Librarian of Congress.

[FR Doc. 2024–05704 Filed 3–15–24; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 240229–0065; RTID 0648–XD690]

Pacific Halibut Fisheries; Catch Sharing Plan; 2024 Annual Management Measures

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

ACTION: Final rule.

SUMMARY: The Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, on behalf of the International Pacific Halibut Commission (IPHC), publishes as regulations the 2024 annual management measures governing the Pacific halibut fishery that have been recommended by the IPHC and accepted by the Secretary of State, with the concurrence of the Secretary of Commerce. These measures are intended to enhance the conservation of Pacific halibut and further the goals and objectives of the Pacific Fishery Management Council (PFMC) and the North Pacific Fishery Management Council (NPFMC).

DATES: The IPHC's 2024 annual management measures became effective March 9, 2024. The 2024 management measures are effective until superseded.

ADDRESSES: Additional requests for information regarding this action may be obtained by contacting the International Pacific Halibut Commission, 2320 W Commodore Way, Suite 300, Seattle, WA 98199–1287; or Sustainable Fisheries Division, NMFS Alaska Region, P.O. Box 21668, Juneau, AK 99802; or Sustainable Fisheries Division, NMFS West Coast Region, 1201 NE Lloyd Blvd., Suite 1100, Portland, OR 97232. This final rule also is accessible via the internet at the Federal eRulemaking Portal at *https://www.regulations.gov,* identified by docket number NOAA–NMFS–2024–0038.

FOR FURTHER INFORMATION CONTACT: For Convention waters off Alaska, Kurt Iverson, 907–586–7210; or, for Convention waters off the U.S. West Coast, Heather Fitch, 360–320–6549.

SUPPLEMENTARY INFORMATION:

Background

The IPHC has recommended regulations that would govern the Pacific halibut fishery in 2024, pursuant to the Convention between Canada and the United States for the Preservation of the Halibut Fishery of the North Pacific Ocean and Bering Sea (Convention), signed at Ottawa, Ontario, on March 2, 1953, as amended by a Protocol Amending the Convention (signed at Washington, DC, on March 29, 1979).

As provided by the Northern Pacific Halibut Act of 1982 (Halibut Act), the Secretary of State, with the concurrence of the Secretary of Commerce, may accept or reject, on behalf of the United States, regulations recommended by the IPHC in accordance with the Convention. 16 U.S.C. 773b. The Secretary of State, with the concurrence of the Secretary of Commerce, accepted the 2024 IPHC regulations on March 9, 2024 thereby making them effective.

The Halibut Act provides the Secretary of Commerce with the authority and general responsibility to carry out the requirements of the Convention and the Halibut Act. The PFMC and NPFMC may develop, and the Secretary of Commerce may implement, regulations governing harvesting privileges among U.S. fishermen in U.S. waters that are in addition to, and not in conflict with, approved IPHC regulations. The NPFMC has exercised this authority in developing halibut management programs for three fisheries that harvest halibut off Alaska: the subsistence, sport, and commercial fisheries. The PFMC has exercised this authority by developing a catch sharing plan governing the allocation of halibut and management of sport and commercial halibut fisheries on the U.S. West Coast.

The IPHC apportions catch limits for the Pacific halibut fishery among regulatory areas (Figure 1): Area 2A (Oregon, Washington, and California), Area 2B (British Columbia), Area 2C (Southeast Alaska), Area 3A (Central Gulf of Alaska), Area 3B (Western Gulf of Alaska), and Area 4 (which is further divided into 5 areas, 4A through 4E, in the Bering Sea and Aleutian Islands of Western Alaska).

Subsistence and sport halibut fishery regulations for Alaska, and tribal, sport, and directed commercial halibut fishery regulations for Area 2A, are codified at 50 CFR part 300. Commercial halibut fisheries off Alaska are subject to regulations resulting from the Individual Fishing Quota (IFQ) Program, the Community Development Quota (CDQ) Program (50 CFR part 679), and the area-specific catch sharing plans for Areas 2C, 3A, and Areas 4C, 4D, and 4E, respectively.

The NPFMC implemented a catch sharing plan among commercial IFQ and CDQ halibut fisheries in IPHC Regulatory Areas 4C, 4D, and 4E (Area 4, Western Alaska) through rulemaking, and the Secretary of Commerce approved the plan on March 20, 1996 (61 FR 11337). The Area 4 catch sharing plan regulations are codified at 50 CFR 300.65. New annual regulations pertaining to the Area 4 catch sharing plan also may be implemented through IPHC action, subject to acceptance by the Secretary of State, with the concurrence of the Secretary of Commerce.

The NPFMC recommended and NMFS implemented through rulemaking a catch sharing plan for commercial IFQ and guided sport (charter) halibut fisheries in IPHC Regulatory Areas 2C and 3A on January 13, 2014 (78 FR 75844, December 12, 2013). The Area 2C and 3A catch sharing plan regulations are codified at 50 CFR 300.65. The catch sharing plan defines an annual process for allocating halibut between the commercial and charter fisheries so that each sector's allocation varies in proportion to halibut abundance, specifies a public process for setting annual management measures, and authorizes limited annual leases of commercial IFQ for use in the charter fishery as guided angler fish (GAF).

The IPHC held its annual meeting in Anchorage, Alaska, from January 22 through 26, 2024, and recommended a number of changes to the previous IPHC regulations (88 FR 14066, March 7, 2023). On March 9, 2024, the Secretary of State, with the concurrence of the Secretary of Commerce, accepted the annual management measures, including the following changes to Section 5, Section 6, Section 9, Section 27, Section 28, and other Sections of the 2024 IPHC regulations:

1. New halibut catch limits in all regulatory areas. The catch limits are presented in two tables in Section 5. They distinguish between limits resulting from Commission decisions

and limits that result from domestic catch sharing plans that have been developed by the respective United States and Canada Governments;

2. The addition of a footnote to the fishery limit table in Section 5, and a new paragraph in Section 6. The footnote and the new paragraph each reference the Area 2A Pacific halibut catch sharing plan, to clarify that the plan includes provisions for in-season reallocations of Pacific halibut recreational fishery catch limits;

3. New commercial fishery season dates and start time in Section 9;

4. New management measures in Section 28 for Area 2C and Area 3A guided sport fisheries;

5. Updates to fishery log requirements for commercial fisheries in Section 19; and

6. Minor technical corrections to improve consistency and clarity throughout the IPHC regulations.

Pursuant to regulations at 50 CFR 300.62, the 2024 IPHC annual management measures are published in the **Federal Register** in this action to provide notice of their regulatory effectiveness and to inform persons subject to the regulations of their restrictions and requirements. Because the regulations published in this action are applicable to the entire Convention area, these regulations include some provisions relating to and affecting Canadian fishing and fisheries. In separate actions, NMFS may implement more restrictive regulations for the U.S. halibut fishery or components of it; therefore, anglers are advised to check the current Federal and IPHC regulations prior to fishing.

Catch Limits

The IPHC recommended to the governments of Canada and the United States fishery catch limits for 2024 totaling 28,860,000 pounds (lb) (13,091 metric tons (mt)). The IPHC refers to catch limits as Fishery Constant Exploitation Yield (FCEY), which are derived from Total Constant Exploitation Yield (TCEY) by directed fisheries that are specified in the IPHC regulations and are subject to area-specific catch agreements among the domestic parties. Coastwide, the 2024 FCEY decreased 3.3 percent from the FCEY implemented in 2023. Except for Area 2C, which increased by 1.4 percent, the FCEY in each regulatory area decreased relative to the 2023 catch limit. A description of the process the IPHC used to set these catch limits follows.

For the upcoming 2024 halibut fishing year, the IPHC conducted its annual stock assessment using a range of updated data sources as described in detail in the IPHC overview of data sources for the Pacific halibut stock assessment, harvest policy, and related analyses (IPHC–2024–AM100–10; available at *https://www.iphc.int*). To evaluate the Pacific halibut stock, the IPHC uses an ''ensemble'' of 4 equally weighted models: 2 long time-series models incorporating data from 1888 to the present and 2 short time-series models incorporating data from 1992 to the present. For each time-series, the two models include data that are either divided by four geographical regions or aggregated into coastwide summaries. These models incorporate data through 2023 from the IPHC Fishery Independent Setline Survey (FISS); the commercial halibut fishery; the NMFS Eastern Bering Sea trawl survey; length and weight-at-age and male/female sex ratio estimates by region in the directed commercial fisheries and in the FISS; and age distribution information for bycatch, sport, and sublegal discard removals.

The results of the ensemble models are integrated and incorporate uncertainty in natural mortality rates, environmental effects on recruitment, and other structural and parameter categories, consistent with practices in place since 2012. The data and assessment models used by the IPHC are reviewed by the IPHC's Scientific Review Board, comprised of non-IPHC scientists who provide an independent scientific review of the data and stock assessment to provide recommendations to IPHC staff and the Commissioners. The Scientific Review Board did not identify any substantive errors in the data or methods used in the 2023 stock assessment. NMFS believes the IPHC's data and assessments models constitute the best available science on the status of the Pacific halibut resource.

The IPHC's data, including the FISS, indicate that the Pacific halibut stock declined continuously from the late 1990s to around 2012, largely as a result of decreasing size at a given age (size-at-age), higher harvest rates in the early 2000s, and weaker recruitment than observed during the 1980s. From about 2013 to 2016, there was a slight increasing trend in the spawning biomass, followed by a slight decline continuing into the current assessment, where the spawning biomass appears to have stabilized. Overall, the spawning biomass is estimated to be approximately 174,000,000 lb (78,925 mt) at the beginning of 2024. The spawning biomass is currently estimated to be at 42 percent of its unfished state, near the lowest level observed since the 1970s. This estimate reflects updated calculations recommended during stock assessment external review and review by the Scientific Review Board, as well as developments in the IPHC Management Strategy Evaluation.

The IPHC accounts for the total mortality of halibut from all sources, and employs a management procedure that establishes a coastwide reference level of fishing intensity so that the Spawning Potential Ratio (SPR) is equal to 43 percent. The reference fishing intensity of F43 percent SPR (*i.e.,* F value) would allow a level of fishing intensity that is expected to result in approximately 43 percent of the spawning biomass per recruit compared to an unfished stock (*i.e.,* no fishing mortality). Lower F percentages would be expected to result in higher fishing intensity.

The IPHC harvest decision table (Table 3 in IPHC–2024–AM100–12; available at *https://www.iphc.int*) provides a comparison of the relative risk of a decrease in stock biomass, stock status, or fishery metrics for a range of fishing intensities for 2024. The harvest decision table employs two metrics of fishing mortality: (1) the TCEY, which includes harvests and incidental discard mortality from directed commercial fisheries; mortality estimates from sport, subsistence, and personal use; and estimates of non-directed discard mortality of halibut over 26 inches (66.0 centimeters (cm)) (O26); and (2) Total Mortality, which includes all the above sources of mortality, plus estimates of non-directed discard mortality of halibut less than 26 inches (66.0 cm) (U26). Although U26 halibut mortality is factored into the stock assessment and harvest strategy calculations, there is currently no reliable tool for describing the annual coastwide distribution of U26 halibut.

For 2024, the IPHC adopted a TCEY totaling 35,280,000 lb (16,003 mt) coastwide. This corresponds to a fishing intensity of approximately F52 percent, which is more conservative than the F43 percent reference level of fishing intensity used to establish TCEYs in years prior to 2023. The 2024 TCEY is 1,690,000 lb (767 mt), or 4.6 percent, less than the TCEY adopted in 2023.

In making its recommendation, the IPHC considered likely stock status and uncertainties, as well as the significant social and economic impacts of catch limits among areas. The IPHC noted in 2023 that a recent change in the treatment of the natural mortality rate, from the previously assumed value of 0.15 to an estimated value of to 0.21 in the short regional model, and its effect on the full ensemble, resulted in more

optimistic projections due to the increase in the estimated productivity of the stock. The IPHC noted that despite the positive outlook for the long-term status of the stock, the near term fishery will rely heavily on a single year class (2012), and also noted that the FISS and commercial fishery catch rates have been very low for two consecutive years and are currently at the lowest rates observed in 30 years.

At a coastwide TCEY of 35,280,000 lb (16,003 mt), the IPHC considered the probability that the spawning biomass will decrease from 2025 to 2027 relative to 2024. Specifically, the IPHC estimated a 40 percent probability of stock decline through 2024, and the same 40 percent probability of stock decline through 2026. The IPHC noted that if the recent reference level of fishing intensity were adopted, the probability of a spawning biomass decline was 74 percent by 2024 and 72 percent by 2026. The factors that the IPHC considered in making their TCEY recommendations are described in the 2024 Annual Meeting Report (IPHC–2024–AM100–R; available at *https://www.iphc.int*), and the key recommendations are briefly summarized here.

This final rule does not establish the combined commercial and recreational catch limit for Area 2B (British Columbia), which is subject to rulemaking by the Canada and British Columbia Governments. However, the IPHC's recommendation for the Area 2B catch limit is directly related to the current and future U.S. catch limits established by this final rule and is therefore discussed herein. The IPHC recommended a 2024 TCEY of 6,470,000 (2,935 mt) for Area 2B, which equates to 18.3 percent of the total coastwide TCEY and is a 4.6 percent reduction from 2023. The IPHC made this recommendation after considering recent harvests in Area 2B, the equal 4.6 percent reduction recommended for the total U.S. areas, and similar factors associated with the stock conditions, commercial fishery and FISS performance, and stock assessment results described above in the 2024 Annual Meeting Report (IPHC–2024–AM100–R; available at *https://www.iphc.int*).

The IPHC adopted an allocation to Area 2A that would provide a TCEY of 1,650,000 lb (748 mt) with a combined commercial, tribal, and recreational FCEY catch limit of 1,470,000 (667 mt). The IPHC noted that the United States Government recognizes its trust responsibility to the 13 treaty tribes in IPHC Regulatory Area 2A that depend upon Pacific halibut. As such, the U.S. Commissioners have consistently supported a TCEY of 1,650,000 lb for Regulatory Area 2A since 2019. This allocation reflects the needs of West Coast Pacific halibut users, with minimal impact on the larger Pacific halibut biomass that is distributed to the north, and it remains a small fraction of the IPHC Region 2 allocation. Stock assessment scientists at the IPHC have affirmed that under the current status of the Pacific halibut stock, a higher TCEY for Regulatory Area 2A than what may be indicated by the modeled stock distribution will not create a conservation concern.

After the allocations for Areas 2A and 2B are accounted for, the IPHC apportioned the remaining TCEY to the Alaska regulatory areas (Areas 2C through Area 4) after considering the distribution of harvestable biomass of halibut based on the FISS, as well as 2023 harvest rates, the recommendations from the IPHC's advisory bodies, public input, and social and economic factors. All Alaska areas decreased in TCEY relative to 2023 (see table 1). The largest decreases were in Areas 4B (−8.1 percent) and 4A (−6.9 percent), while Areas 2C, 3A, 3B, and 4CDE received decreases ranging from −1 to −6.0 percent, relative to 2023. The IPHC determined that the 2024 catch limit recommendations are consistent with its conservation objectives for the halibut stock and its management objectives for the halibut fisheries.

The IPHC also considered the catch sharing plan for Area 4CDE developed by the NPFMC in its TCEY recommendation. The Area 4CDE catch limit is determined by subtracting estimates of the Area 4CDE subsistence harvests, commercial discard mortality, and non-directed discard mortality of halibut over 26 inches (66.0 cm) from the area TCEY. When the resulting Area 4CDE catch limit is greater than 1,657,600 lb (752.87 mt), a direct allocation of 80,000 lb (36.29 mt) is made to Area 4E to provide CDQ fishermen in that area with additional harvesting opportunity. After this 80,000 lb (36.29 mt) allocation is deducted from the catch limit, the remainder is divided among Areas 4C, 4D, and 4E according to the percentages specified in the catch sharing plan. Those percentages are 46.43 percent each to 4C and 4D and 7.14 percent to 4E. For 2024, the IPHC recommended a catch limit for Area 4CDE of 2,060,000 (934 mt).

TABLE 1—PERCENT CHANGE IN TCEY MORTALITY LIMITS FROM 2023 TO 2024 BY IPHC REGULATORY AREA

Regulatory area	2023 Total mortality limit (lb)	2024 Total mortality limit (lb)	Change from 2023 (percent)
2A	1,650,000 (748 mt)	1,650,000 (748 mt)	0.0
2B	6,780,000 (3,075 mt)	6,470,000 (2,935 mt)	−4.6
2C	5,850,000 (2,654 mt)	5,790,000 (2,626 mt)	−1.0
3A	12,080,000 (5,479 mt)	11,360,000 (5,153 mt)	−6.0
3B	3,670,000 (1,665 mt)	3,450,000 (1,565 mt)	−6.0
4A	1,730,000 (785 mt)	1,610,000 (730 mt)	−6.9
4B	1,360,000 (617 mt)	1,250,000 (567 mt)	−8.1
4CDE	3,850,000 (1,746 mt)	3,700,000 (1,678 mt)	−3.9
Coastwide	36,970,000 (16,769 mt)	35,280,000 (16,003 mt)	−4.6

Commercial Halibut Fishery Opening and Closing Dates and Opening Time

The IPHC considers advice from the IPHC's two advisory bodies, as well as direct testimony from the public, when selecting opening and closing dates and times for the commercial halibut fishery. The 2024 commercial halibut fishery opening date for all IPHC regulatory areas is March 15, 2024. The closing date for the commercial halibut fisheries in all IPHC regulatory areas is December 7, 2024. These commercial season dates are a slight change from the season dates adopted by the IPHC in 2023. The season opening of March 15 is similar to the mid-March opening common in the years prior to 2021, while the closing date of December 7 is consistent with the closing dates from

2021 through 2023, representing an extension of time beyond the mid-November closing common in the years prior to 2021. The extended season maintains harvesting and market flexibility that stakeholders have identified as important during the current period of uncertainty. The season dates allow for the anticipated time required to fully harvest the commercial halibut catch limits, seasonal holidays, and adequate time for IPHC staff to review the complete record of 2024 commercial catch data for use in the stock assessment process. The IPHC also considered the time required for the administrative tasks that are linked to halibut regulations developed independently by the domestic partners when establishing these season dates.

The IPHC also changed the time of day for opening the 2024 fishery from 12:00, which was in place in previous years, to 06:00 for 2024. This change was in response to recommendations from the IPHC advisory bodies, which noted that allowing a full day of fishing on March 15 facilitates access to markets and improves fishing efficiency and opportunity.

Area 2A Catch Sharing Plan

The NMFS West Coast Region published a proposed rule, with public comments accepted for 30 days, to approve the Pacific halibut catch sharing plan for Area 2A off Washington, Oregon, and California and implement annual management measures for the Area 2A sport fishery, as recommended by the PFMC in the catch sharing plan. These annual management measures include sport fishery subarea allocations and management measures that are not implemented through the IPHC. NMFS will address any comments received in a final rule.

NMFS West Coast Region will separately publish a proposed rule for annual management measures for the Area 2A non-tribal directed commercial fishery. Management measures will included vessel catch limits, as well as fishing periods that fall within the coastwide commercial season dates set forth in Section 9 of the IPHC regulations. Public comments will be accepted and NMFS will address any comments received in a final rule.

Once published, the proposed and final rules for Area 2A will be available on the NMFS West Coast Region's website at *https://www.fisheries.noaa.gov/west-coast/commercial-fishing/pacific-halibut-fishing-west-coast* and also at *https://www.regulations.gov.*

The IPHC added a footnote to Section 5 and a new paragraph to Section 6 of the 2024 IPHC regulations that allow for in-season transfer of sport fishery allocations. These clarifying modifications mirror changes to the Area 2A catch sharing plan adopted by the PFMC at their November 2023 meeting.

Catch Sharing Plan for Area 2C and Area 3A

In 2014, NMFS implemented a catch sharing plan for Area 2C and Area 3A. The catch sharing plan defines an annual process for allocating halibut between the charter and commercial fisheries in Area 2C and Area 3A and establishes allocations for each fishery. Under the catch sharing plan, the IPHC adopted combined catch limits (CCL) for the commercial and charter halibut fisheries in Area 2C and Area 3A. Each CCL includes estimates of discard mortality for each fishery. The catch sharing plan was implemented to achieve the halibut fishery management goals of the NPFMC. More information is provided in the final rule implementing the catch sharing plan (78 FR 75844, December 12, 2013). Implementing regulations for the catch sharing plan are at 50 CFR 300.65. The Area 2C and Area 3A catch sharing plan allocations are located in tables 1 through 4 of subpart E of 50 CFR part 300. To allow additional flexibility for individual commercial and charter fishery participants, the catch sharing plan also authorizes annual transfers of commercial halibut IFQ as GAF to charter halibut permit holders for harvest in the charter fishery. Pacific halibut that are retained by charter vessel anglers as GAF are not subject to the annual charter halibut management measures specified in the 2024 IPHC regulations. Under the catch sharing plan regulations, charter vessel anglers may use GAF to harvest up to two halibut of any size per day. Complete GAF regulations for the catch sharing plan are at 50 CFR 300.65.

At its January 2024 meeting, the IPHC adopted a CCL of 4,420,000 (2,005 mt) for Area 2C. Following the catch sharing plan allocations in tables 1 and 3 of subpart E of 50 CFR part 300, the charter fishery is allocated 810,000 (367 mt) of the CCL, and the remainder of the CCL, 3,610,000 lb (1,637 mt), is allocated to the commercial fishery. Discard mortality in the amount of 110,000 lb (50 mt) was deducted from the commercial allocation to obtain the commercial catch limit of 3,500,000 lb (1,587 mt). The commercial allocation (including discard mortality) increased by 50,000 lb (23.7 mt), or 1.4 percent, from the 2023 allocation of 3,560,000 lb (1,615 mt). The 2023 Area 2C charter allocation of 810,000 lb (367 mt) is 10,000 lb (4.5 mt), or 1.2 percent more than the 2023 charter allocation of 800,000 lb (363 mt).

The IPHC adopted a CCL of 10,000,000 lb (4,536 mt) for Area 3A. Following the catch sharing plan allocations in tables 2 and 4 of subpart E of 50 CFR part 300, the charter fishery is allocated 1,890,000 lb (857 mt) of the CCL and the remainder of the CCL, 8,100,000 lb (3,674 mt), is allocated to the commercial fishery. Discard mortality in the amount of 540,000 lb (245 mt) was deducted from the commercial allocation to obtain the commercial catch limit of 7,560,000 lb (3,429 mt). The commercial allocation (including discard mortality) decreased by 320,000 lb (145 mt), or 3.5 percent, from the 2023 allocation of 8,420,000 lb (3,819 mt). The charter allocation remained equal to the 2023 allocation.

Charter Halibut Management Measures for Area 2C and Area 3A

Guided sport (charter) halibut anglers are managed under different regulations than unguided recreational halibut anglers in Areas 2C and 3A in Alaska. According to Federal regulations at 50 CFR 300.61, a charter vessel angler means a person, paying or non-paying, receiving sport fishing guide services for halibut. Sport fishing guide services means assistance, for compensation or with the intent to receive compensation, to a person who is sport fishing, to take or attempt to take halibut by accompanying or physically directing the sport fisherman in sport fishing activities during any part of a charter vessel fishing trip. A charter vessel fishing trip is the time period between the first deployment of fishing gear into the water from a charter vessel by a charter vessel angler and the offloading of one or more charter vessel anglers or any halibut from that vessel. The regulations described below apply only to charter vessel anglers receiving sport fishing guide services during a charter vessel fishing trip for halibut in Area 2C or Area 3A. These regulations do not apply to unguided recreational anglers in any regulatory area in Alaska, nor to charter vessel anglers in areas other than Areas 2C and 3A.

To provide recommendations for annual management measures intended to limit charter harvest to the charter catch allocation, the NPFMC formed the Charter Halibut Management Committee (Committee) as a stakeholder advisory body. The Committee is composed of representatives from the charter fishing industry in Areas 2C and 3A who

provide input on the preferred range of charter management measures each year. In October 2023, the Committee began their annual process by requesting analysis of management measures that would result in charter halibut removals within the range of expected allocations for each area. In addition, this annual analysis, which is prepared by the Alaska Department of Fish Game (ADFG), includes information about charter harvests in the prior year. The Analysis of Management Options for the Area 2C and 3A Charter Halibut Fisheries for 2024 (charter halibut analysis) is available at *https://www.npfmc.org/.*

After reviewing the charter halibut analysis, the Committee made conservative recommendations for preferred management measures to the NPFMC for 2024. These recommendations were intended to provide equitable harvest opportunity across charter business arrangements and maintain total charter harvests within the 2024 allocations for both Areas 2C and 3A. The NPFMC considered the charter halibut analysis, the recommendations of the Committee, and public testimony to develop its recommendation to the IPHC. The NPFMC has used this process to select and recommend annual management measures to the IPHC since 2012.

The IPHC recognizes the role of the NPFMC to develop policy and regulations that allocate the Pacific halibut resource among fishermen in and off Alaska and that NMFS has developed numerous regulations to support the NPFMC's goals of limiting the charter halibut harvest to the charter catch allocation. The IPHC's adopted recommendations are consistent with the recommendations of the NPFMC and the Committee. The IPHC determined that limiting charter harvests by implementing the management measures discussed below would meet conservation and allocation objectives.

Management Measures for Charter Vessel Fishing in Area 2C

For 2024 in Area 2C, the IPHC adopted the continuation of a one-fish daily bag limit that has been in effect each year for charter vessel anglers since the catch sharing plan was implemented in 2014. This bag limit is combined with day of the week closures that prohibit the retention of Pacific halibut by charter vessel anglers on all Fridays from July 19 to September 13, 2024, and size limits on all retained halibut. Size limits have proven effective in limiting the number and pounds of retained halibut.

For 2024, the size limits employ different reverse slot limits for two specific periods. From February 1 through July 14, a person on board a charter vessel (as referred to in 50 CFR 300.65) and fishing in Area 2C is prohibited from taking or possessing any halibut, with head on, that is greater than 40 inches (101.6 cm) and less than 80 inches (203.2 cm). From July 15 through December 31, the lower range of the slot limit is reduced from 40 inches (101.6 cm) to 36 inches (91.4 cm); the upper range of 80 inches (203.2 cm) remains the same. All charter halibut size limits referenced in this document are measured in a straight line from the tip of the lower jaw with mouth closed, passing over the pectoral fin, to the extreme end of the middle of the tail.

Although the 2024 Area 2C charter halibut allocation is 10,000 lb greater than the 2023 allocation, the above management measures are more restrictive than the measures implemented in 2023. To develop these measures, the Committee, the NPFMC, and IPHC considered the ADFG analysis that evaluated the performance of prior years' measures, as well as projections of halibut fishing effort for 2024. With the above management measures in place, the projected charter harvest is expected to meet the 810,000 lb. charter halibut allocation for Area 2C.

Management Measures for Charter Vessel Fishing in Area 3A

For 2024, the IPHC adopted the following management measures for Area 3A: 1) a two-fish daily bag limit that allows one fish of any size and a 28-inch (71.1 cm) maximum size limit for the other halibut; 2) a one-trip per day limit for charter halibut permits and charter vessels for the entire season; and 3) a prohibition on halibut retention by charter vessel anglers on all Wednesdays.

The Area 3A management measures for 2024 are less conservative than those imposed in 2023. The NPFMC and IPHC considered information on charter removals in 2023 and for previous years, the projections of charter harvest in 2024, and the 2024 charter allocation. With this information, the NPFMC and IPHC determined that less restrictive management measures in Area 3A, relative to the 2023 measures, were appropriate to limit charter removals to the 2024 charter allocation. The projected charter harvest for 2024 under the combination of recommended measures is 1,880,000 lb (852.8 mt), which is 10,000 lb (4.5 mt) and 0.5 percent below the charter allocation.

In addition to the daily bag and size limits noted above, the NPFMC recommended and the IPHC adopted a closure on charter vessel anglers retaining halibut on all Wednesdays. Retention of GAF halibut is allowed on charter vessels on Wednesdays, but all other halibut that are caught while fishing on a charter vessel on Wednesdays must be released. The day of week closures in Area 3A effectively decrease the charter halibut harvest to help stay within the allocation.

In Area 3A, charter halibut permits and charter vessels in 2024 are authorized for use to catch and retain halibut on one charter halibut fishing trip per day. If no halibut are retained during a charter vessel fishing trip, the charter halibut permit and charter vessel may be used to take an additional trip to catch and retain halibut that day. These regulations have been in place each year since 2016 and have proven effective in controlling halibut harvests.

For purposes of the trip limit in Area 3A in 2024, a charter vessel fishing trip will end when any angler or halibut is offloaded, or at the end of the calendar day, whichever comes first. A charter halibut permit or charter vessel may conduct overnight trips since charter vessel anglers may retain a bag limit of halibut on two calendar days. But a charter halibut permit or charter vessel cannot be used to begin another overnight trip until the day after the previous charter vessel fishing trip ends. As noted above, GAF are exempt from charter halibut management measures, including trip limits. Therefore, a charter halibut permit and a charter vessel may be used to harvest GAF on a second charter vessel fishing trip in a day, but only if exclusively GAF are harvested on that trip.

Other Regulatory Amendments

Logbook Requirements

To reflect current and future conditions in the commercial halibut fisheries and to add clarity to the regulations that require the logging of these fishing activities, the IPHC adopted several changes to Section 19 of the IPHC regulations to:

(1) Align regulations between United States and Canada fisheries to clarify that logs not collected by the IPHC during the fishing season, or otherwise not made available to the IPHC, must be submitted to the agency within 30 days following the end of the season;

(2) Require that fishing locations and fishing activity be recorded using latitude and longitude for each day and set of gear. Formerly, the regulations allowed Pacific halibut operators to note their fishing location by naming a

direction and distance from a point of land;

(3) Update the names and types of logbooks that are eligible for use to record fishing activity;

(4) Require that writing in the logs be clear and legible;

(5) Clarify that in Alaska, NMFS electronic groundfish logbooks may be used to record halibut harvests, provided the logbooks have been approved by NMFS; and

(6) Clarify that electronic IPHC logbooks may be used to record halibut harvests, provided the logbooks have been approved by the IPHC.

Both items (5) and (6) above address third-party electronic logbooks that may be developed and become available for use by Pacific halibut fishing vessel operators in the future. The addition of these paragraphs in section 19 ensures that NMFS and IPHC data collections are maintained and existing data-sharing agreements between the agencies are supported as new forms of logbooks become available.

International Pacific Halibut Commission Fishery Regulations 2024 (Annual Management Measures)

The following annual management measures for the 2024 Pacific halibut fishery are those recommended by the IPHC and accepted by the Secretary of State, with the concurrence of the Secretary of Commerce.

1. Short Title

These Regulations may be cited as the International Pacific Halibut Commission (IPHC) Fishery Regulations (2024).

2. Application

(1) These Regulations apply to persons and vessels fishing for Pacific halibut in, or possessing Pacific halibut taken from, the maritime area as defined in Section 3.

(2) Sections 3 to 8 and 29 apply generally to all Pacific halibut fishing.

(3) Sections 9 to 22 apply to commercial fishing for Pacific halibut.

(4) Section 23 applies to Indigenous fisheries in British Columbia.

(5) Section 24 applies to customary and traditional fishing in Alaska.

(6) Sections 25 to 28 apply to recreational (also called sport) fishing for Pacific halibut.

(7) These Regulations do not apply to fishing operations authorized or conducted by the Commission for research purposes.

3. Definitions

(1) In these Regulations,

(a) ''authorized officer'' means any State, Federal, or Provincial officer authorized to enforce these Regulations including, but not limited to, the National Marine Fisheries Service (NOAA Fisheries), Department of Fisheries and Oceans (DFO), Alaska Wildlife Troopers (AWT), United States Coast Guard (USCG), Washington Department of Fish and Wildlife (WDFW), the Oregon State Police (OSP), and California Department of Fish and Wildlife (CDFW);

(b) ''authorized clearance personnel'' means an authorized officer of the United States of America, an authorized representative of the Commission, or a designated fish processor;

(c) ''authorized representative of the Commission'' means any IPHC employee or contractor authorized to perform any task described in these Regulations.

(d) ''charter vessel'' outside of Alaska waters means a vessel used for hire in recreational (sport) fishing for Pacific halibut, but not including a vessel without a hired operator, and in Alaska waters means a vessel used while providing or receiving recreational (sport) fishing guide services for Pacific halibut;

(e) ''commercial fishing'' means fishing, the resulting catch of which is sold or bartered; or is intended to be sold or bartered, other than (i) recreational (sport) fishing; (ii) treaty Indian ceremonial and subsistence fishing as referred to in Section 23; (iii) Indigenous groups fishing in British Columbia as referred to in Section 24; and (iv) customary and traditional fishing as referred to in Section 25 and defined by and regulated pursuant to NOAA Fisheries regulations published at 50 CFR part 300;

(f) ''Commission'' or ''IPHC'' means the International Pacific Halibut Commission;

(g) ''daily bag limit'' means the maximum number of Pacific halibut a person may take in any calendar day from Convention waters;

(h) ''fishing'' means the taking, harvesting, or catching of fish, or any activity that can reasonably be expected to result in the taking, harvesting, or catching of fish, including specifically the deployment of any amount or component part of gear anywhere in the maritime area;

(i) ''fishing period limit'' means the maximum amount of Pacific halibut that may be retained and landed by a vessel during one fishing period;

(j) ''land'' or ''offload'' with respect to Pacific halibut, means the removal of Pacific halibut from the catching vessel;

(k) ''permit'' means a Pacific halibut fishing license issued by NOAA Fisheries;

(l) ''maritime area,'' in respect of the fisheries jurisdiction of a Contracting Party, includes without distinction areas within and seaward of the territorial sea and internal waters of that Party;

(m) ''net weight'' of a Pacific halibut means the weight of Pacific halibut that is without gills and entrails, head-off, washed, and without ice and slime. If a Pacific halibut is weighed with the head on or with ice and slime, the required conversion factors for calculating net weight are a 2 percent deduction for ice and slime and a 10 percent deduction for the head;

(n) ''operator,'' with respect to any vessel, means the owner and/or the master or other individual on board and in charge of that vessel;

(o) ''overall length'' of a vessel means the horizontal distance, rounded to the nearest foot, between the foremost part of the stem and the aftermost part of the stern (excluding bowsprits, rudders, outboard motor brackets, and similar fittings or attachments);

(p) ''person'' includes an individual, corporation, firm, or association;

(q) ''regulatory area'' means an IPHC Regulatory Area referred to in Section 4;

(r) ''setline gear'' means one or more stationary, buoyed, and anchored lines with hooks attached;

(s) ''sport fishing'' or ''recreational fishing'' means all fishing other than i) commercial fishing; ii) treaty Indian ceremonial and subsistence fishing as referred to in Section 23; iii) Indigenous groups fishing in British Columbia as referred to in Section 24; and iv) customary and traditional fishing as referred to in Section 25 and defined in and regulated pursuant to NOAA Fisheries regulations published in 50 CFR part 300;

(t) ''tender'' means any vessel that buys or obtains fish directly from a catching vessel and transports it to a port of landing or fish processor;

(u) ''total constant exploitation yield (TCEY)'' means the mortality comprised of Pacific halibut from directed fisheries and that from non-directed fisheries greater than 26 inches (66 cm) in length;

(v) ''VMS transmitter'' means a NOAA Fisheries-approved vessel monitoring system transmitter that automatically determines a vessel's position and transmits it to a NOAA Fisheries-approved communications service provider.[1]

(2) In these Regulations, all bearings are true and all positions are determined by the most recent charts issued by the

[1] Call NOAA Enforcement Division, Alaska Region, at 907–586–7225 between the hours of 0800 and 1600 local time for a list of NOAA Fisheries-approved VMS transmitters and communications service providers.

United States National Ocean Service or the Canadian Hydrographic Service.

4. IPHC Regulatory Areas

The following areas within the IPHC Convention waters shall be defined as IPHC Regulatory Areas for the purposes of the Convention (see *Figure 1*):

(1) IPHC Regulatory Area 2A includes all waters off the states of California, Oregon, and Washington;

(2) IPHC Regulatory Area 2B includes all waters off British Columbia;

(3) IPHC Regulatory Area 2C includes all waters off Alaska that are east of a line running 340° true from Cape Spencer Light (58°11′56″ N latitude, 136°38′26″ W longitude) and south and east of a line running 205° true from said light;

(4) IPHC Regulatory Area 3A includes all waters between Area 2C and a line extending from the most northerly point on Cape Aklek (57°41′15″ N latitude, 155°35′00″ W longitude) to Cape Ikolik (57°17′17″ N latitude, 154°47′18″ W longitude), then along the Kodiak Island coastline to Cape Trinity (56°44′50″ N latitude, 154°08′44″ W longitude), then 140° true;

(5) IPHC Regulatory Area 3B includes all waters between Area 3A and a line extending 150° true from Cape Lutke (54°29′00″ N latitude, 164°20′00″ W longitude) and south of 54°49′00″ N latitude in Isanotski Strait;

(6) IPHC Regulatory Area 4A includes all waters in the Gulf of Alaska west of Area 3B and in the Bering Sea west of the closed area defined in Section 10 that are east of 172°00′00″ W longitude and south of 56°20′00″ N latitude;

(7) IPHC Regulatory Area 4B includes all waters in the Bering Sea and the Gulf of Alaska west of IPHC Regulatory Area 4A and south of 56°20′00″ N latitude;

(8) IPHC Regulatory Area 4C includes all waters in the Bering Sea north of IPHC Regulatory Area 4A and north of the closed area defined in Section 10 which are east of 171°00′00″ W longitude, south of 58°00′00″ N latitude, and west of 168°00′00″ W longitude;

(9) IPHC Regulatory Area 4D includes all waters in the Bering Sea north of IPHC Regulatory Areas 4A and 4B, north and west of IPHC Regulatory Area 4C, and west of 168°00′00″ W longitude; and

(10) IPHC Regulatory Area 4E includes all waters in the Bering Sea north and east of the closed area defined in Section 10, east of 168°00′00″ W longitude, and south of 65°34′00″ N latitude.

5. Mortality and Fishery Limits

(1) The Commission has adopted the following distributed mortality (TCEY) limits:

IPHC regulatory area	Distributed mortality limits (TCEY) (net weight)	
	Tonnes (t)	Million pounds (Mlb)
Area 2A (California, Oregon, and Washington)	748	1.65
Area 2B (British Columbia)	2,935	6.47
Area 2C (southeastern Alaska)	2,626	5.79
Area 3A (central Gulf of Alaska)	5,153	11.36
Area 3B (western Gulf of Alaska)	1,565	3.45
Area 4A (eastern Aleutians)	730	1.61
Area 4B (central and western Aleutians)	567	1.25
Areas 4CDE (Bering Sea)	1,678	3.70
Total	16,003	35.28

(2) The fishery limits resulting from the IPHC-adopted distributed mortality (TCEY) limits and the existing Contracting Party catch sharing arrangements are as follows, recognizing that each Contracting Party may implement more restrictive limits:

IPHC regulatory area	Fishery limits (net weight)	
	Tonnes (t)	Million pounds (Mlb) *
Area 2A (California, Oregon, and Washington)	667	1.47
Non-treaty directed commercial (south of Pt. Chehalis)	113	*249,338
Non-treaty incidental catch in salmon troll fishery	20	*44,001
Non-treaty incidental catch in sablefish fishery (north of Pt. Chehalis)	23	*50,000
Treaty Indian commercial	224	*494,280
Treaty Indian ceremonial and subsistence (year-round)	9	*20,220
Recreational—Washington	132	*290,158
Recreational—Oregon	129	*283,784
Recreational—California	17	*38,220
Area 2B (British Columbia) (combined commercial and recreational)	2,522	5.56
Commercial fishery	2,145	4.73
Recreational fishery	376	0.83
Area 2C (southeastern Alaska) (combined commercial and guided recreational)	2,005	4.42
Commercial fishery (includes 3.50 Mlb landings and 0.11 Mlb discard mortality)	1,637	3.61
Guided recreational fishery (includes landings and discard mortality)	367	0.81
Area 3A (central Gulf of Alaska) (combined commercial and guided recreational)	4,536	10.00
Commercial fishery (includes 7.56 Mlb landings and 0.54 Mlb discard mortality)	3,674	8.10
Guided recreational fishery (includes landings and discard mortality)	857	1.89
Area 3B (western Gulf of Alaska)	1,352	2.98
Area 4A (eastern Aleutians)	581	1.28

IPHC regulatory area	Fishery limits (net weight)	
	Tonnes (t)	Million pounds (Mlb) *
Area 4B (central and western Aleutians)	494	1.09
Areas 4CDE	934	2.06
Area 4C (Pribilof Islands)	417	0.92
Area 4D (northwestern Bering Sea)	417	0.92
Area 4E (Bering Sea flats)	100	0.22
Total	13,091	28.86

* Allocations resulting from the IPHC Regulatory Area 2A Catch Share Plan are listed in *pounds.*

** In IPHC Regulatory Area 2A, the USA (NOAA Fisheries) may take in-season action to reallocate the recreational fishery limits between Washington, Oregon, and California after determining that such action will not result in exceeding the overall IPHC Regulatory Area 2A recreational fishery limit and that such action is consistent with any domestic catch sharing plan. Any such reallocation will be announced by the USA (NOAA Fisheries) and published in the **Federal Register**.

6. In-Season Actions

(1) The Commission is authorized to establish or modify regulations during the season after determining that such action:

(a) will not result in exceeding the fishery limit established preseason for each IPHC Regulatory Area;

(b) is consistent with the Convention between Canada and the United States of America for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea, and applicable domestic law of either Canada or the United States of America; and

(c) is consistent, to the maximum extent practicable, with any domestic catch sharing plans or other domestic allocation programs developed by the governments of Canada or the United States of America.

(2) In-season actions may include, but are not limited to, establishment or modification of the following:

(a) closed areas;

(b) fishing periods;

(c) fishing period limits;

(d) gear restrictions;

(e) recreational (sport) bag limits;

(f) size limits; or

(g) vessel clearances.

(3) In-season changes will be effective at the time and date specified by the Commission.

(4) The Commission will announce in-season actions under this Section by providing notice to major Pacific halibut processors; Federal, State, United States of America treaty Indian, and Provincial fishery officials; and the media.

(5) Notwithstanding paragraphs (3) and (4) of this Section, in IPHC Regulatory Area 2A the USA (NOAA Fisheries) may take in-season action to reallocate the recreational fishery limits between Washington, Oregon, and California after determining that such action will not result in exceeding the overall IPHC Regulatory Area 2A recreational fishery limit and that such action is consistent with any domestic catch sharing plan. Any such reallocation will be announced by the USA (NOAA Fisheries) and published in the **Federal Register**.

7. Careful Release of Pacific Halibut

(1) All Pacific halibut that are caught and are not retained shall be immediately released outboard of the roller and returned to the sea with a minimum of injury by:

(a) hook straightening;

(b) cutting the gangion near the hook; or

(c) carefully removing the hook by twisting it from the Pacific halibut with a gaff.

(2) Except that paragraph (1) shall not prohibit the possession of Pacific halibut on board a vessel that has been brought aboard to be measured to determine if the applicable size limit of the Pacific halibut is met and, if not legal-sized, is promptly returned to the sea with a minimum of injury.

8. Retention of Tagged Pacific Halibut

(1) Nothing contained in these Regulations prohibits any vessel at any time from retaining and landing a Pacific halibut that bears a Commission external tag at the time of capture, if the Pacific halibut with the tag still attached is reported at the time of landing and made available for examination by an authorized representative of the Commission or by an authorized officer.

(2) After examination and removal of the tag by an authorized representative of the Commission or an authorized officer, the Pacific halibut:

(a) may be retained for personal use; or

(b) may be sold only if the Pacific halibut is caught during commercial Pacific halibut fishing and complies with the other commercial fishing provisions of these Regulations.

(3) Any Pacific halibut that bears a Commission external tag will not count against commercial fishing period limits, Individual Vessel Quota (IVQ), Individual Transferable Quota (ITQ), Community Development Quota (CDQ), or Individual Fishing Quota (IFQ), and are not subject to size limits in these regulations, but should still be recorded in the landing record.

(4) Any Pacific halibut that bears a Commission external tag will not count against recreational (sport) daily bag limits or possession limits, may be retained outside of recreational (sport) fishing seasons, and are not subject to size limits in these regulations.

(5) Any Pacific halibut that bears a Commission external tag will not count against daily bag limits, possession limits, or fishery limits in the fisheries described in Section 22(1)(c), Section 23, or Section 24.

9. Commercial Fishing Periods

(1) The fishing periods for each IPHC Regulatory Area apply where the fishery limits specified in Section 5 have not been taken.

(2) Unless the Commission specifies otherwise, commercial fishing for Pacific halibut in all IPHC Regulatory Areas may begin no earlier in the year than 06:00 local time on 15 March.

(3) All commercial fishing for Pacific halibut in all IPHC Regulatory Areas shall cease for the year at 23:59 local time on 7 December.

(4) Regulations pertaining to the non-tribal directed commercial fishing [2] periods in IPHC Regulatory Area 2A will be promulgated by NOAA Fisheries and published in the **Federal Register**. This fishery will occur between the dates and times listed in paragraphs (2) and (3) of this Section.

(5) Notwithstanding paragraph (4) of this Section, an incidental catch

[2] The non-tribal directed commercial fishery is restricted to waters that are south of Point Chehalis, Washington, (46°53.30′ N latitude) under regulations promulgated by NOAA Fisheries and published in the **Federal Register**.

fishery [3] is authorized during the sablefish seasons in IPHC Regulatory Area 2A in accordance with regulations promulgated by NOAA Fisheries. This fishery will occur between the dates and times listed in paragraphs (2) and (3) of this Section.

(6) Notwithstanding paragraph (4) of this Section, an incidental catch fishery is authorized during salmon troll seasons in IPHC Regulatory Area 2A in accordance with regulations promulgated by NOAA Fisheries. This fishery will occur between the dates and times listed in paragraphs (2) and (3) of this Section.

10. Closed Area

All waters in the Bering Sea north of 55°00′00″ N latitude in Isanotski Strait that are enclosed by a line from Cape Sarichef Light (54°36′00″ N latitude, 164°55′42″ W longitude) to a point at 56°20′00″ N latitude, 168°30′00″ W longitude; thence to a point at 58°21′25″ N latitude, 163°00′00″ W longitude; thence to Strogonof Point (56°53′18″ N latitude, 158°50′37″ W longitude); and then along the northern coasts of the Alaska Peninsula and Unimak Island to the point of origin at Cape Sarichef Light are closed to Pacific halibut fishing and no person shall fish for Pacific halibut therein or have Pacific halibut in his/her possession while in those waters except in the course of a continuous transit across those waters. All waters in Isanotski Strait between 55°00′00″ N latitude and 54°49′00″ N latitude are closed to Pacific halibut fishing.

11. Closed Periods

(1) No person shall engage in fishing for Pacific halibut in any IPHC Regulatory Area other than during the fishing periods set out in Section 9 in respect of that area.

(2) No person shall land or otherwise retain Pacific halibut caught outside a fishing period applicable to the IPHC Regulatory Area where the Pacific halibut was taken.

(3) Subject to paragraphs (7), (8), (9), and (10) of Section 17, these Regulations do not prohibit fishing for any species of fish other than Pacific halibut during the closed periods.

(4) Notwithstanding paragraph (3), no person shall have Pacific halibut in his/her possession while fishing for any other species of fish during the closed periods.

(5) No vessel shall retrieve any Pacific halibut fishing gear during a closed period if the vessel has any Pacific halibut on board.

(6) A vessel that has no Pacific halibut on board may retrieve any Pacific halibut fishing gear during the closed period after the operator notifies an authorized officer or an authorized representative of the Commission prior to that retrieval.

(7) After retrieval of Pacific halibut gear in accordance with paragraph (6), the vessel shall submit to a hold inspection at the discretion of the authorized officer or an authorized representative of the Commission.

(8) No person shall retain any Pacific halibut caught on gear retrieved in accordance with paragraph (6).

(9) No person shall possess Pacific halibut on board a vessel in an IPHC Regulatory Area during a closed period unless that vessel is in continuous transit to or within a port in which that Pacific halibut may be lawfully sold.

12. Application of Commercial Fishery Limits

(1) Notwithstanding the fishery limits described in Section 5, regulations pertaining to the division of the IPHC Regulatory Area 2A fishery limit between the non-tribal directed commercial fishery and the incidental catch fishery as described in paragraphs (5) and (6) of Section 9 will be promulgated by NOAA Fisheries and published in the **Federal Register**.

(2) Notwithstanding the fishery limits described in Section 5, the IPHC Regulatory Area 2A non-tribal directed commercial fishery will close when NOAA Fisheries determines and announces in the **Federal Register** that the fishery limit has been or is projected to be reached, or on the date when fishing must cease as specified in Section 9, whichever is earlier.

(3) Notwithstanding the fishery limits described in Section 5, the commercial fishing in IPHC Regulatory Area 2B will close only when all Individual Vessel Quota (IVQ) and Individual Transferable Quota (ITQ) assigned by DFO are taken, or on the date when fishing must cease as specified in Section 9, whichever is earlier.

(4) Notwithstanding the fishery limits described in Section 5, IPHC Regulatory Areas 2C, 3A, 3B, 4A, 4B, 4C, 4D, and 4E will each close only when all Individual Fishing Quota (IFQ) and all Community Development Quota (CDQ) issued by NOAA Fisheries have been taken, or on the date when fishing must cease as specified in Section 9, whichever is earlier.

(5) Notwithstanding the fishery limits described in Section 5, the total allowable catch of Pacific halibut that may be taken in the IPHC Regulatory Area 4E directed commercial fishery is equal to the combined annual fishery limits specified for the IPHC Regulatory Areas 4D and 4E CDQ fisheries and any IPHC Regulatory Area 4D IFQ received by transfer by a CDQ organization. The annual IPHC Regulatory Area 4D fishery limit will decrease by the equivalent amount of CDQ and IFQ received by transfer by a CDQ organization taken in IPHC Regulatory Area 4E in excess of the annual IPHC Regulatory Area 4E fishery limit.

(6) Notwithstanding the fishery limits described in Section 5, the total allowable catch of Pacific halibut that may be taken in the IPHC Regulatory Area 4D directed commercial fishery is equal to the combined annual fishery limits specified for IPHC Regulatory Areas 4C and 4D. The annual IPHC Regulatory Area 4C fishery limit will decrease by the equivalent amount of Pacific halibut taken in IPHC Regulatory Area 4D in excess of the annual IPHC Regulatory Area 4D fishery limit.

13. Fishing in IPHC Regulatory Area 2A

(1) No person shall fish for Pacific halibut from a vessel, nor land or retain Pacific halibut on board a vessel, used for commercial fishing in IPHC Regulatory Area 2A, unless issued a permit valid for fishing in IPHC Regulatory Area 2A by NOAA Fisheries according to 50 CFR 300 Subpart E.

(2) It shall be unlawful for any vessel to retain more Pacific halibut than authorized by that vessel's permit in any fishing period for which a fishing period limit is announced by NOAA Fisheries in the **Federal Register**.

(3) The operator of any vessel that fishes for Pacific halibut during a fishing period when fishing period limits are in effect must, upon commencing an offload of Pacific halibut to a commercial fish processor, completely offload all Pacific halibut on board said vessel to that processor and ensure that all Pacific halibut is weighed and reported on State fish tickets.

(4) The operator of any vessel that fishes for Pacific halibut during a fishing period when fishing period limits are in effect must, upon commencing an offload of Pacific halibut other than to a commercial fish processor, completely offload all Pacific halibut on board said vessel and ensure that all Pacific halibut are weighed and reported on State fish tickets.

[3] The incidental fishery during the directed, fixed gear sablefish season is restricted to waters that are north of Point Chehalis, Washington, (46°53.30′ N latitude) under regulations promulgated by NOAA Fisheries at 50 CFR 300.63. Landing restrictions for Pacific halibut retention in the fixed gear sablefish fishery can be found at 50 CFR 660.231.

(5) The provisions of paragraph (4) are not intended to prevent retail over-the-side sales to individual purchasers so long as all the Pacific halibut on board is ultimately offloaded and reported.

(6) Fishing period limits in IPHC Regulatory Area 2A will be promulgated by NOAA Fisheries and published in the **Federal Register** and apply only to the non-tribal directed commercial Pacific halibut fishery referred to in paragraph (4) of Section 9.

14. Fishing in IPHC Regulatory Areas 4D and 4E

(1) Section 14 applies only to any person fishing for, or any vessel that is used to fish for, IPHC Regulatory Area 4E Community Development Quota (CDQ) Pacific halibut, IPHC Regulatory Area 4D CDQ Pacific halibut, or IPHC Regulatory Area 4D Individual Fishing Quota (IFQ) received by transfer by a CDQ organization provided that the total annual Pacific halibut catch of that person or vessel is landed at a port within IPHC Regulatory Areas 4E or 4D.

(2) A person may retain Pacific halibut taken with setline gear that are smaller than the size limit specified in Section 18, provided that no person may sell or barter such Pacific halibut.

(3) The manager of a CDQ organization that authorizes persons to harvest Pacific halibut in the IPHC Regulatory Area 4E or 4D CDQ fisheries or IFQ received by transfer by a CDQ organization must report to the Commission the total number and weight of undersized Pacific halibut taken and retained by such persons pursuant to paragraph (2) of this Section. This report, which shall include data and methodology used to collect the data, must be received by the Commission prior to 1 November of the year in which such Pacific halibut were harvested.

15. Vessel Clearance in IPHC Regulatory Area 4

(1) The operator of any vessel that fishes for Pacific halibut in IPHC Regulatory Areas 4A, 4B, 4C, or 4D must obtain a vessel clearance before fishing in any of these areas, and before the landing of any Pacific halibut caught in any of these areas, unless specifically exempted in paragraphs (10), (13), (14), (15), or (16).

(2) An operator obtaining a vessel clearance required by paragraph (1) must obtain the clearance in person from the authorized clearance personnel and sign the IPHC form documenting that a clearance was obtained, except that when the clearance is obtained via VHF radio referred to in paragraphs (5), (8), and (9), the authorized clearance personnel must sign the IPHC form documenting that the clearance was obtained.

(3) The vessel clearance required under paragraph (1) prior to fishing in IPHC Regulatory Area 4A may be obtained only at Nazan Bay on Atka Island, Dutch Harbor, or Akutan, Alaska, from the authorized clearance personnel.

(4) The vessel clearance required under paragraph (1) prior to fishing in IPHC Regulatory Area 4B may only be obtained at Nazan Bay on Atka Island or Adak, Alaska, from the authorized clearance personnel.

(5) The vessel clearance required under paragraph (1) prior to fishing in IPHC Regulatory Area 4C or 4D may be obtained only at St. Paul or St. George, Alaska, from the authorized clearance personnel by VHF radio and allowing the person contacted to confirm visually the identity of the vessel.

(6) The vessel operator shall specify the specific regulatory area in which fishing will take place.

(7) Before unloading any Pacific halibut caught in IPHC Regulatory Area 4A, a vessel operator may obtain the clearance required under paragraph (1) only in Dutch Harbor or Akutan, Alaska, by contacting the authorized clearance personnel.

(8) Before unloading any Pacific halibut caught in IPHC Regulatory Area 4B, a vessel operator may obtain the clearance required under paragraph (1) only in Nazan Bay on Atka Island or Adak, by contacting the authorized clearance personnel by VHF radio or in person.

(9) Before unloading any Pacific halibut caught in IPHC Regulatory Areas 4C and 4D, a vessel operator may obtain the clearance required under paragraph (1) only in St. Paul, St. George, Dutch Harbor, or Akutan, Alaska, either in person or by contacting the authorized clearance personnel. The clearances obtained in St. Paul or St. George, Alaska, can be obtained by VHF radio and allowing the person contacted to confirm visually the identity of the vessel.

(10) Any vessel operator who complies with the requirements in Section 16 for possessing Pacific halibut on board a vessel that was caught in more than one regulatory area in IPHC Regulatory Area 4 is exempt from the clearance requirements of paragraph (1) of this Section, provided that:

(a) the operator of the vessel obtains a vessel clearance prior to fishing in IPHC Regulatory Area 4 in either Dutch Harbor, Akutan, St. Paul, St. George, Adak, or Nazan Bay on Atka Island by contacting the authorized clearance personnel. The clearance obtained in St. Paul, St. George, Adak, or Nazan Bay on Atka Island can be obtained by VHF radio and allowing the person contacted to confirm visually the identity of the vessel. This clearance will list the areas in which the vessel will fish; and

(b) before unloading any Pacific halibut from IPHC Regulatory Area 4, the vessel operator obtains a vessel clearance from Dutch Harbor, Akutan, St. Paul, St. George, Adak, or Nazan Bay on Atka Island by contacting the authorized clearance personnel. The clearance obtained in St. Paul or St. George can be obtained by VHF radio and allowing the person contacted to confirm visually the identity of the vessel. The clearance obtained in Adak or Nazan Bay on Atka Island can be obtained by VHF radio.

(11) Vessel clearances shall be obtained between 0600 and 1800, local time.

(12) No Pacific halibut shall be on board the vessel at the time of the clearances required prior to fishing in IPHC Regulatory Area 4.

(13) Any vessel that is used to fish for Pacific halibut only in IPHC Regulatory Area 4A and lands its total annual Pacific halibut catch at a port within IPHC Regulatory Area 4A is exempt from the clearance requirements of paragraph (1).

(14) Any vessel that is used to fish for Pacific halibut only in IPHC Regulatory Area 4B and lands its total annual Pacific halibut catch at a port within IPHC Regulatory Area 4B is exempt from the clearance requirements of paragraph (1).

(15) Any vessel that is used to fish for Pacific halibut only in IPHC Regulatory Areas 4C or 4D or 4E and lands its total annual Pacific halibut catch at a port within IPHC Regulatory Areas 4C, 4D, 4E, or the closed area defined in Section 10, is exempt from the clearance requirements of paragraph (1).

(16) Any vessel that carries a NOAA Fisheries observer, a NOAA Fisheries electronic monitoring system, or a transmitting VMS transmitter while fishing for Pacific halibut in IPHC Regulatory Areas 4A, 4B, 4C, or 4D and until all Pacific halibut caught in any of these IPHC Regulatory Areas is landed, is exempt from the clearance requirements of paragraph (1) of this Section, provided that:

(a) the operator of the vessel complies with NOAA Fisheries' observer or electronic monitoring regulations published at 50 CFR Subpart E, or vessel monitoring system regulations published at 50 CFR 679.28(f)(3), (4) and (5); and

(b) the operator of the vessel notifies NOAA Fisheries Office for Law Enforcement at 800–304–4846 (select option 1 to speak to an Enforcement Data Clerk) between the hours of 0600 and 0000 (midnight) local time within 72 hours before fishing for Pacific halibut in IPHC Regulatory Areas 4A, 4B, 4C, or 4D and receives a VMS confirmation number.

16. Fishing Multiple Regulatory Areas

(1) Except as provided in this Section, no person shall possess at the same time on board a vessel Pacific halibut caught in more than one IPHC Regulatory Area.

(2) Pacific halibut caught in more than one of the IPHC Regulatory Areas 2C, 3A, 3B, 4A, 4B, 4C, 4D, or 4E may be possessed on board a vessel at the same time only if:

(a) authorized by NOAA Fisheries regulations published at 50 CFR 679.7(f)(4); and

(b) the operator of the vessel identifies the regulatory area in which each Pacific halibut on board was caught by separating Pacific halibut from different areas in the hold, tagging Pacific halibut, or by other means.

17. Fishing Gear

(1) No person shall fish for Pacific halibut using any gear other than hook and line gear,

(a) except that a person may retain Pacific halibut taken with longline or single trap gear if such retention is authorized by DFO as defined by Pacific Fishery Regulations and Conditions of Licence; or

(b) except that a person may retain Pacific halibut taken with longline or single pot gear if such retention is authorized by NOAA Fisheries regulations published at 50 CFR part 679.

(2) No person shall possess Pacific halibut taken with any gear other than hook and line gear,

(a) except that a person may possess Pacific halibut taken with longline or single trap gear if such retention is authorized by DFO as defined by Pacific Fishery Regulations and Conditions of Licence; or

(b) except that a person may possess Pacific halibut taken with longline or single pot gear if such possession is authorized by NOAA Fisheries regulations published at 50 CFR part 679.

(3) No person shall possess Pacific halibut while on board a vessel carrying any trawl nets.

(4) All gear marker buoys carried on board or used by any United States of America vessel used for Pacific halibut fishing shall be marked with one of the following:

(a) the vessel's State license number; or

(b) the vessel's registration number.

(5) The markings specified in paragraph (4) shall be in characters at least four inches in height and one-half inch in width in a contrasting color visible above the water and shall be maintained in legible condition.

(6) All gear marker buoys carried on board or used by a Canadian vessel used for Pacific halibut fishing shall be:

(a) floating and visible on the surface of the water; and

(b) legibly marked with the identification plate number of the vessel engaged in commercial fishing from which that setline is being operated.

(7) No person on board a vessel used to fish for any species of fish anywhere in IPHC Regulatory Area 2A during the 72-hour period immediately before the fishing period for the non-tribal directed commercial fishery shall catch or possess Pacific halibut anywhere in those waters during that Pacific halibut fishing period unless, prior to the start of the Pacific halibut fishing period, the vessel has removed its gear from the water and has either:

(a) made a landing and completely offloaded its catch of other fish; or

(b) submitted to a hold inspection by an authorized officer.

(8) No vessel used to fish for any species of fish anywhere in IPHC Regulatory Area 2A during the 72-hour period immediately before the fishing period for the non-tribal directed commercial fishery may be used to catch or possess Pacific halibut anywhere in those waters during that Pacific halibut fishing period unless, prior to the start of the Pacific halibut fishing period, the vessel has removed its gear from the water and has either:

(a) made a landing and completely offloaded its catch of other fish; or

(b) submitted to a hold inspection by an authorized officer.

(9) No person on board a vessel used to fish for any species of fish anywhere in IPHC Regulatory Areas 2B, 2C, 3A, 3B, 4A, 4B, 4C, 4D, or 4E during the 72-hour period immediately before the opening of the Pacific halibut fishing season shall catch or possess Pacific halibut anywhere in those areas until the vessel has removed all of its gear from the water and has either:

(a) made a landing and completely offloaded its entire catch of other fish; or

(b) submitted to a hold inspection by an authorized officer.

(10) No vessel used to fish for any species of fish anywhere in IPHC Regulatory Areas 2B, 2C, 3A, 3B, 4A, 4B, 4C, 4D, or 4E during the 72-hour period immediately before the opening of the Pacific halibut fishing season may be used to catch or possess Pacific halibut anywhere in those areas until the vessel has removed all of its gear from the water and has either:

(a) made a landing and completely offloaded its entire catch of other fish; or

(b) submitted to a hold inspection by an authorized officer.

(11) Notwithstanding any other provision in these Regulations, a person may retain, possess and dispose of Pacific halibut taken with trawl gear only as authorized by Prohibited Species Donation regulations of NOAA Fisheries.

18. Size Limits

(1) No person shall take or possess any Pacific halibut that:

(a) with the head on, is less than 32 inches (81.3 cm) as measured in a straight line, passing over the pectoral fin from the tip of the lower jaw with the mouth closed, to the extreme end of the middle of the tail, as illustrated in *Figure 2;* or

(b) with the head removed, is less than 24 inches (61.0 cm) as measured from the base of the pectoral fin at its most anterior point to the extreme end of the middle of the tail, as illustrated in *Figure 2.*

(2) No person on board a vessel fishing for, or tendering, Pacific halibut in any IPHC Regulatory Area shall possess any Pacific halibut that has had its head removed, except that Pacific halibut frozen at sea with its head removed may be possessed on board a vessel by persons in IPHC Regulatory Areas 2B, 2C, 3A, 3B, 4A, 4B, 4C, 4D, and 4E if authorized by Federal regulations.

(3) The size limit in paragraph (1)(b) will not be applied to any Pacific halibut that has had its head removed after the operator has landed the Pacific halibut.

19. Logs

(1) The operator of any U.S. vessel fishing for Pacific halibut that has an overall length of 26 feet (7.9 meters) or greater shall maintain an accurate log of Pacific halibut fishing operations.

(2) The operator of a vessel fishing in waters in and off Alaska must use one of the following logbooks:

(a) IPHC Pacific halibut logbook (or logbook previously provided by IPHC) or IPHC-approved electronic equivalent;

(b) catcher vessel longline and pot gear Daily Fishing Logbook, or catcher/processor longline and pot gear Daily

Cumulative Production Logbook, in electronic or paper form, provided or approved by NOAA Fisheries;

(c) hook-and-line logbook provided by Alaska Longline Fishermen's Association; or

(d) Alaska Department of Fish and Game (ADFG) longline-pot logbook.

(3) The operator of a vessel fishing in IPHC Regulatory Area 2A must use either:

(a) IPHC Pacific halibut logbook (or logbook previously provided by IPHC) or IPHC-approved electronic equivalent;

(b) Oregon Department of Fish and Wildlife (ODFW) Fixed Gear Logbook; or

(c) Pacific Coast Groundfish non-trawl logbook provided by NOAA Fisheries.

(4) The logbooks referred to in paragraphs (2) and (3) must include the following information:

(a) the name of the vessel and the State (ADFG, WDFW, ODFW, or CDFW) or Tribal ID number;

(b) the date(s) upon which the fishing gear is set or retrieved;

(c) the latitude and longitude coordinates for each set;

(d) the number of skates deployed or retrieved, and number of skates lost; and

(e) the total weight or number of Pacific halibut retained for each set.

(5) The logbooks referred to in paragraphs (2) and (3) shall be:

(a) maintained on board the vessel;

(b) updated not later than 24 hours after 0000 (midnight) local time for each day fished and prior to the offloading or sale of Pacific halibut taken during that fishing trip;

(c) retained for a period of two years by the owner or operator of the vessel;

(d) open to inspection by an authorized officer or an authorized representative of the Commission upon demand;

(e) kept on board the vessel when engaged in Pacific halibut fishing, during transits to port of landing, and until the offloading of all Pacific halibut is completed; and

(f) submitted to the Commission within 30 days of the season closing date if not previously collected by an authorized representative of the Commission or otherwise made available to the Commission.

(6) The log referred to in paragraph (1) does not apply to the incidental Pacific halibut fishery during the salmon troll season in IPHC Regulatory Area 2A defined in paragraph (6) of Section 9.

(7) The operator of any Canadian vessel fishing for Pacific halibut shall maintain an accurate record in the British Columbia Integrated Groundfish Fishing Log.

(8) The log referred to in paragraph (7) must include the following information:

(a) the name of the vessel and the DFO vessel registration number;

(b) the date(s) upon which the fishing gear is set and retrieved;

(c) the latitude and longitude coordinates for each set;

(d) the number of skates deployed or retrieved, and number of skates lost; and

(e) the total weight or number of Pacific halibut retained for each set.

(9) The log referred to in paragraph (7) shall be:

(a) maintained on board the vessel;

(b) retained for a period of two years by the owner or operator of the vessel;

(c) open to inspection by an authorized officer or an authorized representative of the Commission upon demand;

(d) kept on board the vessel when engaged in Pacific halibut fishing, during transits to port of landing, and until the offloading of all Pacific halibut is completed;

(e) submitted to the DFO within seven days of offloading; and

(f) submitted to the Commission within seven days of the final offload if not previously collected by an authorized representative of the Commission.

(10) No person shall make a false entry in a log referred to in this Section.

(11) Writing in a log referred to in this Section shall be clear and legible.

20. Receipt and Possession of Pacific Halibut

(1) No person shall receive Pacific halibut caught in IPHC Regulatory Area 2A from a United States of America vessel that does not have on board the permit required by Section 13(1).

(2) No person shall possess on board a vessel a Pacific halibut other than whole or with gills and entrails removed, except that this paragraph shall not prohibit the possession on board a vessel of:

(a) Pacific halibut cheeks cut from Pacific halibut caught by persons authorized to process the Pacific halibut on board in accordance with NOAA Fisheries regulations published at 50 CFR part 679;

(b) fillets from Pacific halibut offloaded in accordance with this Section that are possessed on board the harvesting vessel in the port of landing up to 1800 local time on the calendar day following the offload [4]; and

(c) Pacific halibut with their heads removed in accordance with Section 18.

(3) No person shall offload Pacific halibut from a vessel unless the gills and entrails have been removed prior to offloading.[5]

(4) It shall be the responsibility of a vessel operator who lands Pacific halibut to continuously and completely offload at a single offload site all Pacific halibut on board the vessel.

(5) A registered buyer (as that term is defined in regulations promulgated by NOAA Fisheries and codified at 50 CFR part 679) who receives Pacific halibut harvested in Individual Fishing Quota (IFQ) and Community Development Quota (CDQ) fisheries in IPHC Regulatory Areas 2C, 3A, 3B, 4A, 4B, 4C, 4D, and 4E, directly from the vessel operator that harvested such Pacific halibut must weigh all the Pacific halibut received and record the following information on Federal catch reports: date of offload; name of vessel; vessel number (State, Tribal or Federal, not IPHC vessel number); scale weight obtained at the time of offloading, including the scale weight (in pounds) of Pacific halibut purchased by the registered buyer, the scale weight (in pounds) of Pacific halibut offloaded in excess of the IFQ or CDQ, the scale weight of Pacific halibut (in pounds) retained for personal use or for future sale, and the scale weight (in pounds) of Pacific halibut discarded as unfit for human consumption. All Pacific halibut harvested in IFQ or CDQ fisheries in Areas IPHC Regulatory 2C, 3A, 3B, 4A, 4B, 4C, 4D, and 4E, must be weighed with the head on and the head-on weight must be recorded on Federal catch reports as specified in this paragraph, unless the Pacific halibut is frozen at sea and exempt from the head-on landing requirement at Section 18(2).

(6) The first recipient, commercial fish processor, or buyer in the United States of America who purchases or receives Pacific halibut directly from the vessel operator that harvested such Pacific halibut must weigh and record all Pacific halibut received and record the following information on State fish tickets: the date of offload; vessel number (State or Federal, not IPHC vessel number) or Tribal ID number; total weight obtained at the time of offload including the weight (in pounds) of Pacific halibut purchased; the weight (in pounds) of Pacific halibut offloaded in excess of the IFQ, CDQ, or fishing period limits; the weight of Pacific halibut (in pounds) retained for personal use or for future sale; and the weight (in pounds) of Pacific halibut discarded as unfit for human consumption. All Pacific halibut

[4] DFO has more restrictive regulations; therefore, Section 20 paragraph (2)(b) does not apply to fish caught in IPHC Regulatory Area 2B or landed in British Columbia.

[5] DFO did not adopt this regulation; therefore, Section 20 paragraph (3) does not apply to fish caught in IPHC Regulatory Area 2B.

harvested in fisheries in IPHC Regulatory Areas 2A, 2C, 3A, 3B, 4A, 4B, 4C, 4D, and 4E must be weighed with the head on and the head-on weight must be recorded on State fish tickets as specified in this paragraph, unless the Pacific halibut is frozen at sea and exempt from the head-on landing requirement at Section 18(2).

(7) For Pacific halibut landings made in Alaska, the requirements as listed in paragraphs (5) and (6) can be met by recording the information in the Interagency Electronic Reporting Systems, eLandings, in accordance with NOAA Fisheries regulation published at 50 CFR part 679.

(8) The master or operator of a Canadian vessel that was engaged in Pacific halibut fishing must weigh and record all Pacific halibut on board said vessel at the time offloading commences and record on Provincial fish tickets or Federal catch reports: the date; locality; name of vessel; the name(s) of the person(s) from whom the Pacific halibut was purchased; and the scale weight obtained at the time of offloading of all Pacific halibut on board the vessel including the pounds purchased, pounds in excess of Individual Vessel Quota (IVQ) or Individual Transferable Quota (ITQ), pounds retained for personal use, and pounds discarded as unfit for human consumption. All Pacific halibut must be weighed with the head on and the head-on weight must be recorded on the Provincial fish tickets or Federal catch reports as specified in this paragraph, unless the Pacific halibut is frozen at sea and exempt from the head-on landing requirement at Section 18(2).

(9) No person shall make a false entry on a State or Provincial fish ticket or a Federal catch or landing report referred to in paragraphs (5), (6), and (8) of this Section.

(10) A copy of the fish tickets or catch reports referred to in paragraphs (5), (6), and (8) shall be:

(a) retained by the person making them for a period of three years from the date the fish tickets or catch reports are made; and

(b) open to inspection by an authorized officer or an authorized representative of the Commission.

(11) No person shall possess any Pacific halibut taken or retained in contravention of these Regulations.

(12) When Pacific halibut are landed to other than a commercial fish processor, the records required by paragraph (6) shall be maintained by the operator of the vessel from which that Pacific halibut was caught, in compliance with paragraph (10).

(13) No person shall tag Pacific halibut unless the tagging is authorized by IPHC or by a Federal or State agency.

21. Supervision of Unloading and Weighing

(1) The unloading and weighing of Pacific halibut may be subject to the supervision of authorized officers to assure the fulfillment of the provisions of these Regulations.

(2) The unloading and weighing of Pacific halibut may be subject to sampling by an authorized representative of the Commission.

22. Fishing by United States Indian Tribes

(1) Pacific halibut fishing in IPHC Regulatory Area Subarea 2A–1 by members of United States treaty Indian tribes located in the State of Washington shall be regulated under regulations promulgated by NOAA Fisheries and published in the **Federal Register**:

(a) Subarea 2A–1 includes the usual and accustomed fishing areas for Pacific Coast treaty tribes off the coast of Washington and all inland marine waters of Washington north of Point Chehalis (46°53.30′ N lat.), including Puget Sound. Boundaries of a tribe's fishing area may be revised as ordered by a United States Federal court;

(b) Section 13(1) does not apply to commercial fishing for Pacific halibut in Subarea 2A–1 by Indian tribes; and

(c) ceremonial and subsistence fishing for Pacific halibut in Subarea 2A–1 is permitted with hook and line gear from 1 January through 31 December.

(2) In IPHC Regulatory Area 2C, the Metlakatla Indian Community has been authorized by the United States Government to conduct a commercial Pacific halibut fishery within the Annette Islands Reserve. Fishing periods for this fishery are announced by the Metlakatla Indian Community and the Bureau of Indian Affairs. Landings in this fishery are accounted with the commercial landings for IPHC Regulatory Area 2C.

(3) Section 7 (careful release of Pacific halibut), Section 17 (fishing gear), except paragraphs (7) and (8) of Section 17, Section 18 (size limits), Section 19 (logs), and Section 20 (receipt and possession of Pacific halibut) apply to commercial fishing for Pacific halibut by Indian tribes.

Regulations in paragraph (3) of this Section that apply to State fish tickets apply to Tribal tickets that are authorized by WDFW and ADFG.

(5) Commercial fishing for Pacific halibut is permitted with hook and line gear between the dates specified in Section 9 paragraphs (2) and (3), or until the applicable fishery limit specified in Section 5 is taken, whichever occurs first.

23. Indigenous Groups Fishing for Food, Social and Ceremonial Purposes in British Columbia

(1) Fishing for Pacific halibut for food, social and ceremonial purposes by Indigenous groups in IPHC Regulatory Area 2B shall be governed by the *Fisheries Act* of Canada and regulations as amended from time to time.

24. Customary and Traditional Fishing in Alaska

(1) Customary and traditional fishing for Pacific halibut in IPHC Regulatory Areas 2C, 3A, 3B, 4A, 4B, 4C, 4D, and 4E shall be governed pursuant to regulations promulgated by NOAA Fisheries and published in 50 CFR part 300.

(2) Customary and traditional fishing is authorized from 1 January through 31 December.

25. Recreational (Sport) Fishing for Pacific Halibut—General

(1) No person shall engage in recreational (sport) fishing for Pacific halibut using gear other than a single line with no more than two hooks attached; or a spear.

(2) Any size limit promulgated under IPHC or domestic regulations shall be measured in a straight line passing over the pectoral fin from the tip of the lower jaw with the mouth closed, to the extreme end of the middle of the tail as depicted in *Figure 2.*

(3) Any Pacific halibut brought aboard a vessel and not immediately returned to the sea with a minimum of injury will be included in the daily bag limit of the person catching the Pacific halibut.

(4) No person may possess Pacific halibut on a vessel while fishing in a closed area.

(5) No Pacific halibut caught by recreational (sport) fishing shall be offered for sale, sold, traded, or bartered.

(6) No Pacific halibut caught in recreational (sport) fishing shall be possessed on board a vessel when other fish or shellfish aboard said vessel are destined for commercial use, sale, trade, or barter.

(7) The operator of a charter vessel shall be liable for any violations of these Regulations committed by an angler on board said vessel. In Alaska, the charter vessel guide, as defined in 50 CFR 300.61 and referred to in 50 CFR 300.65, 300.66, and 300.67, shall be liable for any violation of these Regulations committed by an angler on board a charter vessel.

26. Recreational (Sport) Fishing for Pacific Halibut—IPHC Regulatory Area 2A

(1) The Commission shall determine and announce closing dates to the public for any area in which the fishery limits promulgated by NOAA Fisheries are estimated to have been taken.

(2) When the Commission has determined that a subquota under paragraph (7) of this Section is estimated to have been taken, and has announced a date on which the season will close, no person shall recreational (sport) fish for Pacific halibut in that area after that date for the rest of the year, unless a reopening of that area for recreational (sport) Pacific halibut fishing is scheduled in accordance with the Catch Sharing Plan for IPHC Regulatory Area 2A, or announced by the Commission.

(3) No person shall fish for Pacific halibut from a vessel, nor land or retain Pacific halibut on board a vessel, used as a charter vessel in IPHC Regulatory Area 2A, unless issued a permit valid for fishing in IPHC Regulatory Area 2A by NOAA Fisheries according to 50 CFR 300 Subpart E.

(4) In California, Oregon, or Washington, no person shall fillet, mutilate, or otherwise disfigure a Pacific halibut in any manner that prevents the determination of minimum size or the number of fish caught, possessed, or landed.

(5) The possession limit on a vessel for Pacific halibut in the waters off the coast of Washington is the same as the daily bag limit. The possession limit for Pacific halibut on land in Washington is two daily bag limits.

(6) The possession limit on a vessel for Pacific halibut caught in the waters off the coast of Oregon is the same as the daily bag limit. The possession limit for Pacific halibut on land in Oregon is three daily bag limits.

(7) The possession limit on a vessel for Pacific halibut caught in the waters off the coast of California is one daily bag limit. The possession limit for Pacific halibut on land in California is one daily bag limit.

(8) Specific regulations describing fishing periods, fishery limits, fishing dates, and daily bag limits are promulgated by NOAA Fisheries and published in the **Federal Register**.

27. Recreational (Sport) Fishing for Pacific Halibut—IPHC Regulatory Area 2B

(1) In all waters off British Columbia: [6] [7]

(a) the recreational (sport) fishing season will open on 1 February;

(b) the recreational (sport) fishing season will close when the recreational (sport) fishery limit allocated by DFO is taken, or 31 December, whichever is earlier; and

(c) the daily bag limit is two (2) Pacific halibut of any size per day, per person, and may be increased to a daily bag limit of three (3) Pacific halibut per day, per person on or after 1 August. This provision shall remain in effect through 2025, unless extended by a vote of the Commission.

(2) In British Columbia, no person shall fillet, mutilate, or otherwise disfigure a Pacific halibut in any manner that prevents the determination of minimum size or the number of fish caught, possessed, or landed.

(3) The possession limit for Pacific halibut in the waters off the coast of British Columbia is three Pacific halibut.[6] [7]

28. Recreational (Sport) Fishing for Pacific Halibut—IPHC Regulatory Areas 2C, 3A, 3B, 4A, 4B, 4C, 4D, 4E

(1) In Convention waters in and off Alaska: [8] [9]

(a) the recreational (sport) fishing season is from 1 February to 31 December;

(b) the daily bag limit is two Pacific halibut of any size per day per person unless a more restrictive bag limit applies in Commission regulations or Federal regulations at 50 CFR 300.65;

(c) no person may possess more than two daily bag limits;

(d) no person shall possess on board a vessel, including charter vessels and pleasure craft used for fishing, Pacific halibut that have been filleted, mutilated, or otherwise disfigured in any manner, except that each Pacific halibut may be cut into no more than 2 ventral pieces, 2 dorsal pieces, and 2 cheek pieces, with a patch of skin on each piece, naturally attached. Either one dorsal piece or one ventral piece from one Pacific halibut on board may be consumed;

(e) Pacific halibut in excess of the possession limit in paragraph (1)(c) of this Section may be possessed on a vessel that does not contain recreational (sport) fishing gear, fishing rods, hand lines, or gaffs;

(f) Pacific halibut harvested on a charter vessel fishing trip in IPHC Regulatory Areas 2C or 3A must be retained on board the charter vessel on which the Pacific halibut was caught until the end of the charter vessel fishing trip as defined at 50 CFR 300.61;

(g) guided angler fish (GAF), as described at 50 CFR 300.65, may be used to allow a charter vessel angler to harvest additional Pacific halibut up to the limits in place for unguided anglers, and are exempt from the requirements in paragraphs (2) and (3) of this Section; and

(h) if there is an annual limit on the number of Pacific halibut that may be retained by a charter vessel angler as defined at 50 CFR 300.61, for purposes of enforcing the annual limit, each charter vessel angler must:

(1) maintain a nontransferable harvest record in the angler's possession if retaining a Pacific halibut for which an annual limit has been established. Such harvest record must be maintained either on the angler's State of Alaska recreational (sport) fishing license, an ADFG approved electronic harvest record, or on a Sport Fishing Harvest Record Card obtained, without charge, from ADFG offices, the ADFG website, or fishing license vendors;

(2) immediately upon retaining a Pacific halibut for which an annual limit has been established, permanently and legibly record the date, location (IPHC Regulatory Area), and species of the catch (Pacific halibut) on the harvest record; and

(3) record the information required by paragraph 1(h)(2) on any duplicate or additional recreational (sport) fishing license issued to the angler, duplicate electronic harvest record, or any duplicate or additional Sport Fishing Harvest Record Card obtained by the angler for all Pacific halibut previously retained during that year that were subject to the harvest record reporting requirements of this Section.

(2) For guided recreational (sport) fishing (as referred to in 50 CFR 300.65) in IPHC Regulatory Area 2C:

(a) no person on board a charter vessel (as referred to in 50 CFR 300.65) shall catch and retain more than one Pacific halibut per calendar day; and

(b) no person on board a charter vessel (as referred to in 50 CFR 300.65) shall catch and retain from, 1 February to 14 July, any Pacific halibut that with head on is greater than 40 inches (101.6

[6] DFO could implement more restrictive regulations for the recreational (sport) fishery, therefore anglers are advised to check the current Federal or Provincial regulations prior to fishing.

[7] For regulations on the experimental recreational fishery implemented by DFO check the current Federal or Provincial regulations.

[8] NOAA Fisheries could implement more restrictive regulations for the recreational (sport) fishery or components of it, therefore, anglers are advised to check the current Federal or State regulations prior to fishing.

[9] Under regulations promulgated by NOAA Fisheries at 50 CFR 300.66(u), it is unlawful for any person to be a charter vessel guide of a charter vessel on which one or more charter vessel anglers are catching and retaining Pacific halibut in both IPHC Regulatory Areas 2C and 3A during one charter vessel fishing trip.

cm) and less than 80 inches (203.2 cm), and from 15 July to 31 December, any Pacific halibut that with head on is greater than 36 inches (91.4 cm) and less than 80 inches (203.2 cm), as measured in a straight line, passing over the pectoral fin from the tip of the lower jaw with mouth closed, to the extreme end of the middle of the tail; and

(c) no person on board a charter vessel may catch and retain Pacific halibut on any Friday from 19 July to 13 September.

(3) For guided recreational (sport) fishing (as referred to in 50 CFR 300.65) in IPHC Regulatory Area 3A:

(a) no person on board a charter vessel (as referred to in 50 CFR 300.65) shall catch and retain more than two Pacific halibut per calendar day;

(b) at least one of the retained Pacific halibut must have a head-on length of no more than 28 inches (71.1 cm) as measured in a straight line, passing over the pectoral fin from the tip of the lower jaw with mouth closed, to the extreme end of the middle of the tail. If a person recreational (sport) fishing on a charter vessel in IPHC Regulatory Area 3A retains only one Pacific halibut in a calendar day, that Pacific halibut may be of any length;

(c) a ''charter halibut permit'' (as referred to in 50 CFR 300.67) may only be used for one charter vessel fishing trip in which Pacific halibut are caught and retained per calendar day. A charter vessel fishing trip is defined at 50 CFR 300.61 as the time period between the first deployment of fishing gear into the water by a charter vessel angler (as defined at 50 CFR 300.61) and the offloading of one or more charter vessel anglers or any Pacific halibut from that vessel. For purposes of this trip limit, a charter vessel fishing trip ends at 2359 (Alaska local time) on the same calendar day that the fishing trip began, or when any anglers or Pacific halibut are offloaded, whichever comes first;

(d) a charter vessel on which one or more anglers catch and retain Pacific halibut may only make one charter vessel fishing trip per calendar day. A charter vessel fishing trip is defined at 50 CFR 300.61 as the time period between the first deployment of fishing gear into the water by a charter vessel angler (as defined at 50 CFR 300.61) and the offloading of one or more charter vessel anglers or any Pacific halibut from that vessel. For purposes of this trip limit, a charter vessel fishing trip ends at 2359 (Alaska local time) on the same calendar day that the fishing trip began, or when any anglers or Pacific halibut are offloaded, whichever comes first; and

(e) no person on board a charter vessel may catch and retain Pacific halibut on any Wednesday.

29. Previous Regulations Superseded

These Regulations shall supersede all previous regulations of the Commission, and these Regulations shall be effective each succeeding year until superseded.

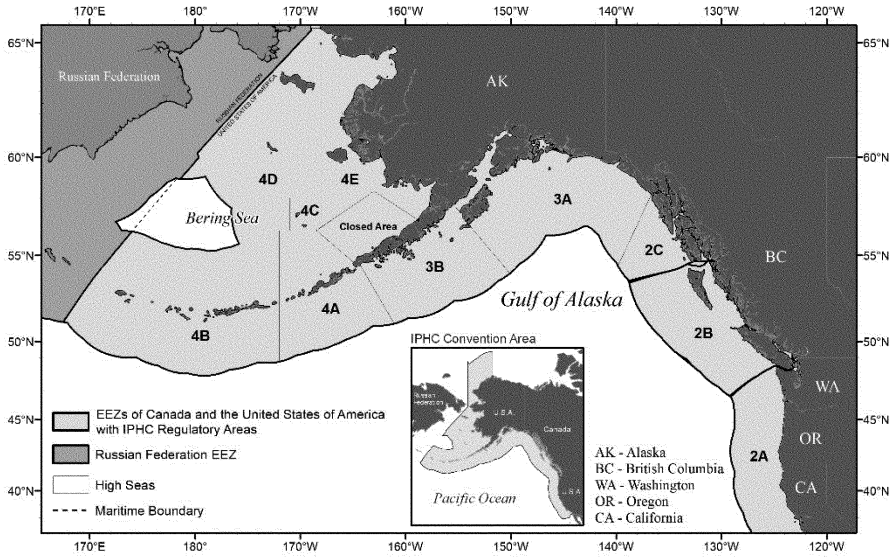

Figure 1. IPHC Regulatory Areas for the Pacific halibut fishery.

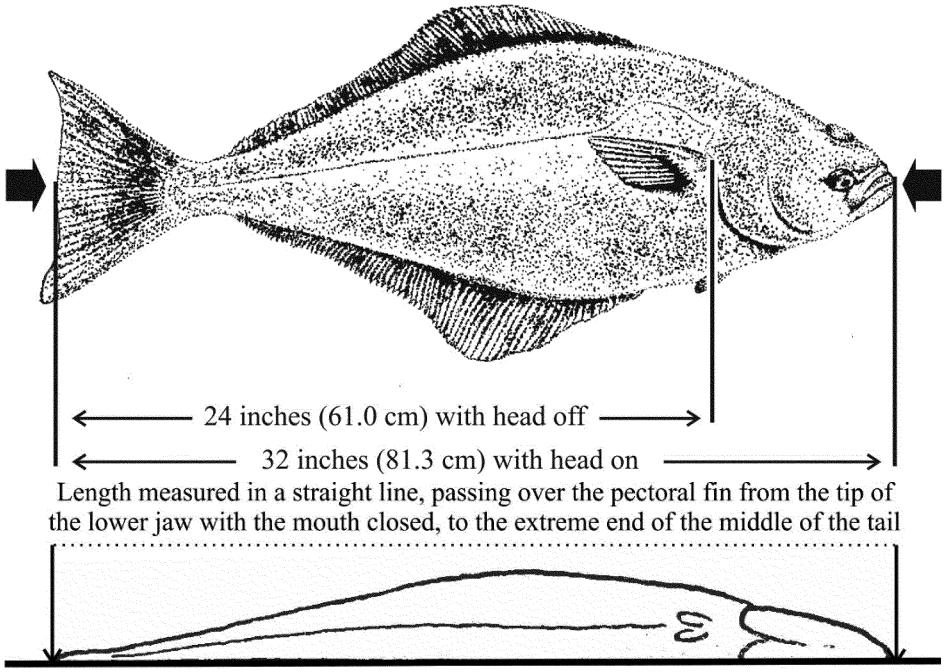

Figure 2. Minimum commercial size.

Classification

IPHC Regulations

These IPHC annual management measures are a product of an agreement between the United States and Canada and are published in the **Federal Register** to provide notice of their effectiveness and content. Pursuant to Section 4 of the Northern Pacific Halibut Act of 1982, 16 U.S.C. 773b, the Secretary of State, with the concurrence of the Secretary of Commerce, may only accept or reject these recommendations of the IPHC. These regulations become effective when such acceptance and concurrence occur. The notice-and-comment and delay-in-effectiveness date provisions of the Administrative Procedure Act (APA), 5 U.S.C. 553(b) and (d), are inapplicable to IPHC management measures because these regulations involve a foreign affairs function of the United States, 5 U.S.C. 553(a)(1). The Secretary of State has no discretion to modify the recommendations of the IPHC. The additional time necessary to comply with the notice-and-comment and delay-in-effectiveness requirements of the APA would disrupt coordinated international conservation and management of the halibut fishery pursuant to the Convention and the Northern Pacific Halibut Act of 1982.

The publication of these regulations in the **Federal Register** provide the affected public with notice that the IPHC management measures are in effect. Furthermore, no other law requires prior notice and public comment for this rule. Because 5 U.S.C. 553 or any other law does not require prior notice and an opportunity for public comment for this notice of the effectiveness of the IPHC's 2024 management measures, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.,* are not applicable. This final rule is exempt from review under Executive Order 12866.

The Paperwork Reduction Act of 1995 requires consideration of the impact of recordkeeping and other information collection burdens imposed on the public. Alaska state law establishes information collection requirements regarding harvest records for individual recreational anglers. See Alaska Admin. Code tit. 5, § 75.006(a) (2023). This final rule contains no new recordkeeping requirements beyond those contained in existing Alaska State or Federal law and therefore involves no additional collection of information burden. Moreover, because there is, at present, no annual limit on the number of Pacific halibut that may be retained by a charter vessel angler as defined at 50 CFR 300.61, the recordkeeping requirements referenced in section 29(1)(h) of the IPHC's Annual Management Measures do not apply during 2024.

Authority: 16 U.S.C. 773 *et seq.*

Dated: March 11, 2024.

Samuel D. Rauch, III,

Deputy Assistant Administer for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 2024–05481 Filed 3–15–24; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 231101–0256; RTID 0648–XD766]

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; 2024 Recreational Fishing Season and Closure Date for Blueline Tilefish in the South Atlantic

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

ACTION: Temporary rule; recreational fishing season.

SUMMARY: NMFS announces the 2024 recreational fishing season for blueline tilefish in South Atlantic Federal waters. Announcing the length of the recreational season is part of the accountability measures (AMs) for the recreational sector. The recreational season opens on May 1, 2024, and NMFS has projected that recreational

landings of blueline tilefish will reach the recreational annual catch limit (ACL) after July 18, 2024. Therefore, NMFS closes the recreational sector for blueline tilefish on July 19, 2024. The recreational season length and closure are necessary to protect the blueline tilefish resource in South Atlantic Federal waters.

DATES: This temporary rule is effective from July 19, 2024, through December 31, 2024.

FOR FURTHER INFORMATION CONTACT: Mary Vara, NMFS Southeast Region, telephone: 727–824–5305, email: *mary.vara@noaa.gov.*

SUPPLEMENTARY INFORMATION: The snapper-grouper fishery of the South Atlantic includes blueline tilefish and is managed under the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP). The FMP was prepared by the South Atlantic Fishery Management Council and is implemented by NMFS under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622. The weights given in this temporary rule are in round weight.

The final rule for Abbreviated Framework 3 to the FMP implemented the recreational ACL for blueline tilefish of 116,820 pounds (52,989 kilograms) (85 FR 43145, July 16, 2020). NMFS recently revised the recreational AMs for blueline tilefish through the final rule for Amendment 52 to the FMP (88 FR 76696, November 7, 2023). Regulations for blueline tilefish at 50 CFR 622.193(z)(2) require NMFS to project the length of the recreational fishing season based on catch rates from the previous fishing year and when NMFS projects the recreational ACL to be met in the current fishing year and then to announce the season end date in the **Federal Register**.

The recreational season for blueline tilefish will open on May 1, 2024. Data from the NMFS Southeast Fisheries Science Center informed the projection that recreational landings of South Atlantic blueline tilefish will reach the recreational ACL after July 18, 2024. Accordingly, on July 19, 2024, NMFS closes the recreational sector for blueline tilefish. During a recreational closure for blueline tilefish in South Atlantic Federal waters, the bag and possession limits are zero.

The next recreational fishing season for blueline tilefish in South Atlantic Federal waters opens on May 1, 2025. As described in 50 CFR 622.183(b)(7), the recreational sector for blueline tilefish in or from South Atlantic Federal waters is closed each year from January 1 through April 30 and from September 1 through December 31.

Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act. This action is required by 50 CFR 622.193(z)(2), issued pursuant to section 304(b), and is exempt from review under Executive Order 12866.

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment is unnecessary and contrary to the public interest. Such procedures are unnecessary because the regulations associated with the recreational harvest of blueline tilefish have already been subject to notice and public comment, and all that remains is to notify the public of the recreational season end date and the recreational closure. Prior notice and opportunity for public comment on this action is contrary to the public interest because of the need to protect the South Atlantic blueline tilefish resource. Additionally, providing as much advance notice to the public of this closure allows charter vessel and headboat businesses that fish for blueline tilefish to prepare for the rest of the fishing season and to schedule or reschedule trips for their clients and to maximize opportunities for their business revenues and profits.

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

Dated: March 12, 2024.

Everett Wayne Baxter,

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

[FR Doc. 2024–05616 Filed 3–15–24; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 89, No. 53
Monday, March 18, 2024

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

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 232, 239, 249, 269, and 274

[Release Nos. 33–11232A; 34–98368A; 39–2551A; IC–34996A; File No. S7–15–23]

RIN 3235–AM58

EDGAR Filer Access and Account Management; Correction

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule; correction.

SUMMARY: This document makes a correction to the preamble of a proposed rule, as proposed in Release No. 33–11232 (Sept. 13, 2023), which was published in the **Federal Register** on September 22, 2023.

DATES: March 18, 2024.

ADDRESSES: Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

FOR FURTHER INFORMATION CONTACT: J. Matthew DeLesDernier, Deputy Secretary, Office of the Secretary, at (202) 551–5400, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

SUPPLEMENTARY INFORMATION: We are making a correction to add a sentence to the preamble of the proposed rule specifying the internet address of a summary of not more than 100 words of the proposed rule that has been posted on the Commission's website.[1]

In document FR doc. 2023–20268, which was published in the **Federal Register** on September 22, 2023, at 88 FR 65524, the following correction is made in the **ADDRESSES** section. On page 65524, in the second column, at the end of the second paragraph, the following sentence is added:

''A summary of the proposal of not more than 100 words is posted on the Commission's website (*https://www.sec.gov/rules/2023/09/edgar-next*).''

By the Commission.

Dated: March 12, 2024.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2024–05625 Filed 3–15–24; 8:45 am]

BILLING CODE 8011–01–P

[1] Providing Accountability Through Transparency Act of 2023, Public Law 118–9, sec. 2, 137 Stat. 55 (July 25, 2023).

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 240 and 275

[Release Nos. 34–97990A; IA–6353A; File No. S7–12–23]

RINs 3235–AN00; 3235–AN14

Conflicts of Interest Associated With the Use of Predictive Data Analytics by Broker-Dealers and Investment Advisers; Correction

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule; correction.

SUMMARY: This document makes a correction to the preamble of a proposed rule, as proposed in Release No. 34–97990 (July 26, 2023), which was published in the **Federal Register** on August 9, 2023.

DATES: March 18, 2024.

ADDRESSES: Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

FOR FURTHER INFORMATION CONTACT: J. Matthew DeLesDernier, Deputy Secretary, Office of the Secretary, at (202) 551–5400, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

SUPPLEMENTARY INFORMATION: We are making a correction to add a sentence to the preamble of the proposed rule release specifying the internet address of a summary of not more than 100 words of the proposed rule that has been posted on the Commission's website.[1]

In document FR doc. 2023–16377, which was published in the **Federal Register** on August 9, 2023, at 88 FR 53960, the following correction is made in the **ADDRESSES** section. On page 53960, in the second column, at the end of the second paragraph, the following sentence is added:

''A summary of the proposal of not more than 100 words is posted on the Commission's website (*https://www.sec.gov/rules/2023/07/s7-12-23#34-97990*).''

By the Commission.

Dated: March 12, 2024.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2024–05623 Filed 3–15–24; 8:45 am]

BILLING CODE 8011–01–P

[1] Providing Accountability Through Transparency Act of 2023, Public Law 118–9, sec. 2, 137 Stat. 55 (July 25, 2023).

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 275 and 279

[Release No. IA–6354A; File No. S7–13–23]

RIN 3235–AN31

Exemption for Certain Investment Advisers Operating Through the Internet; Correction

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule; correction.

SUMMARY: This document makes a correction to the preamble of a proposed rule, as proposed in Release No. IA–6354 (July 26, 2023), which was published in the **Federal Register** on August 1, 2023.

DATES: March 18, 2024.

ADDRESSES: Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

FOR FURTHER INFORMATION CONTACT: J. Matthew DeLesDernier, Deputy Secretary, Office of the Secretary, at (202) 551–5400, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

SUPPLEMENTARY INFORMATION: We are making a correction to add a sentence to the preamble of the proposed rule specifying the internet address of a summary of not more than 100 words of the proposed rule that has been posted on the Commission's website.[1]

In document FR Doc. 2023–16287, which was published in the **Federal Register** on August 1, 2023, at 88 FR 50076, the following correction is made

[1] Providing Accountability Through Transparency Act of 2023, Public Law 118–9, sec. 2, 137 Stat. 55 (July 25, 2023).

in the **ADDRESSES** section. On page 50076, in the third column, at the end of the second paragraph, the following sentence is added:

''A summary of the proposal of not more than 100 words is posted on the Commission's website (*https://www.sec.gov/rules/2023/07/s7-13-23#IA-6354*).''

By the Commission.

Dated: March 12, 2024.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2024–05624 Filed 3–15–24; 8:45 am]

BILLING CODE 8011–01–P

Notices

Federal Register
Vol. 89, No. 53
Monday, March 18, 2024

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the U.S. Virgin Islands Advisory Committee to the U.S. Commission on Civil Rights

AGENCY: U.S. Commission on Civil Rights.

ACTION: Notice of virtual business meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act, that the U.S. Virgin Islands Advisory Committee (Committee) to the U.S. Commission on Civil Rights will hold a public meeting via Zoom. The purpose of the meeting is to discuss and plan on the follow-up activities related to the Committee's inaugural report on The Status of Civil Rights in the U.S. Virgin Islands.

DATES: Wednesday, March 27, 2024, from 1 p.m.–2 p.m. Atlantic Time.

ADDRESSES: The meeting will be held via Zoom.

Registration Link (Audio/Visual): https://bit.ly/3uZxBTt.

Join by Phone (Audio Only): 1–833–435–1820 USA Toll Free; Webinar ID: 161 242 2470#.

FOR FURTHER INFORMATION CONTACT: David Barreras, Designated Federal Officer, at *dbarreras@usccr.gov* or 1–202–656–8937.

SUPPLEMENTARY INFORMATION: This Committee meeting is available to the public through the registration link above. Any interested member of the public may attend this meeting. 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 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 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 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 scheduled meeting. Written comments may be emailed to Sarah Villanueva at *svillanueva@usccr.gov.* Persons who desire additional information may contact the Regional Programs Coordination Unit at 1–202–656–8937.

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, U.S. Virgin Islands 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. Discussion: Post-Report Activites

IV. Public Comment

V. Next Steps

VI. Adjournment

Dated: March 12, 2024.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2024–05650 Filed 3–15–24; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[S–40–2024]

Foreign-Trade Zone 147; Application for Subzone; Stoltzfus Logistics International, LLC; Berks County, Pennsylvania

An application has been submitted to the Foreign-Trade Zones (FTZ) Board by the FTZ Corp. of Southern Pennsylvania, grantee of FTZ 147, requesting subzone status for the facility of Stoltzfus Logistics International, LLC (Stoltzfus), located in Atglen, Pennsylvania. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the FTZ Board (15 CFR part 400). It was formally docketed on March 8, 2024.

The proposed subzone (6.44 acres) is located at 808 Valley Avenue, Atglen, Pennsylvania. No authorization for production activity has been requested at this time. The proposed subzone would be subject to the existing activation limit of FTZ 147.

In accordance with the FTZ Board's regulations, Juanita Chen of the FTZ Staff is designated examiner to review the application and make recommendations to the Executive Secretary.

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary and sent to: *ftz@trade.gov.* The closing period for their receipt is April 29, 2024. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to May 13, 2024.

A copy of the application will be available for public inspection in the ''Online FTZ Information Section'' section of the FTZ Board's website, which is accessible via *www.trade.gov/ftz.*

For further information, contact Juanita Chen at *juanita.chen@trade.gov.*

Dated: March 11, 2024.

Elizabeth Whiteman,

Executive Secretary.

[FR Doc. 2024–05658 Filed 3–15–24; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–12–2024]

Foreign-Trade Zone (FTZ) 49, Notification of Proposed Production Activity; Merck Sharp & Dohme LLC; (Pharmaceutical Products for Research and Development); Rahway, New Jersey

Merck Sharp & Dohme LLC submitted a notification of proposed production activity to the FTZ Board (the Board) for its facility in Rahway, New Jersey, within FTZ 49. The notification conforming to the requirements of the Board's regulations (15 CFR 400.22) was received on March 8, 2024.

Pursuant to 15 CFR 400.14(b), FTZ production activity would be limited to the specific foreign-status material(s)/component(s) and specific finished product(s) described in the submitted notification (summarized below) and subsequently authorized by the Board. The benefits that may stem from conducting production activity under FTZ procedures are explained in the background section of the Board's website—accessible via *www.trade.gov/ftz.*

The proposed finished products for research and development include: drug products containing the following active pharmaceutical ingredients: MK–7962 Sotatercept, MK–3475A monoclonal antibody, MK–2060 monoclonal antibody, MK–6024 Efinopegdutide, and, MK–5475 hypertension; clinical placebos; and, blinded clinical trial kits (duty rate ranges from duty-free to 6.5%, and 40 cents/kg+10.4%).

The proposed foreign-status materials and components include: active pharmaceutical ingredients: MK–5475 Hypertension, MK–6024 Efinopegdutide, MK–7962 Sotatercept, MK–3475A monoclonal antibody, and MK–2060 monoclonal antibody; syringes and syringe parts: barrels, hubs, plungers, needles; autoinjectors and autoinjector subassemblies: casings and dosing mechanisms; and, empty gelatin capsules (duty rate ranges from duty-free to 6.5%). The request indicates that certain materials/components are subject to duties under section 301 of the Trade Act of 1974 (section 301), depending on the country of origin. The applicable section 301 decisions require subject merchandise to be admitted to FTZs in privileged foreign status (19 CFR 146.41).

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary and sent to: *ftz@trade.gov.* The closing period for their receipt April 29, 2024.

A copy of the notification will be available for public inspection in the ''Online FTZ Information System'' section of the Board's website.

For further information, contact Diane Finver at *Diane.Finver@trade.gov.*

Dated: March 12, 2024.

Elizabeth Whiteman,

Executive Secretary.

[FR Doc. 2024–05676 Filed 3–15–24; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–489–849]

Certain Paper Shopping Bags From the Republic of Turkey: Final Affirmative Determination of Sales at Less Than Fair Value

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) determines that certain paper shopping bags (paper shopping bags) from the Republic of Turkey (Turkey) are being, or are likely to be, sold in the United States at less than fair value (LTFV) during the period of investigation (POI) April 1, 2022, through March 31, 2023.

DATES: Applicable March 18, 2024.

FOR FURTHER INFORMATION CONTACT: Jeff Pedersen, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–2769.

SUPPLEMENTARY INFORMATION:

Background

On January 3, 2024, Commerce published the preliminary determination in this LTFV investigation in the **Federal Register**.[1] Although we provided interested parties with an opportunity to comment on the *Preliminary Determination,* no interested party submitted comments on the *Preliminary Determination,* other than scope comments, which we have addressed in a Final Scope Decision Memorandum.[2] On March 5, 2024, Commerce held a hearing regarding scope comments filed in the LTFV investigations of paper shopping bags from Cambodia, the People's Republic of China, Colombia, India, Malaysia, Portugal, Taiwan, Turkey, and the Socialist Republic of Vietnam.[3]

Scope of the Investigation

The products covered by this investigation are paper shopping bags from Turkey. For a complete description of the scope of this investigation, *see* the appendix to this notice.

Scope Comments

During the course of this investigation, Commerce received scope comments from parties. Commerce issued a Preliminary Scope Decision Memorandum to address these comments and set aside a period of time for parties to address scope issues in scope-specific case and rebuttal briefs.[4] We received comments from parties on the Preliminary Scope Decision Memorandum, which we address in the Final Scope Decision Memorandum. We did not make any changes to the scope of the investigation from the scope published in the *Preliminary Determination.*

Use of Adverse Facts Available (AFA)

Pursuant to section 776(a) and (b) of the Tariff Act of 1930, as amended (the Act), we have continued to assign the specific companies that are listed in the table below an estimated weighted-average dumping margin based on adverse facts available (AFA), because these companies failed to cooperate to the best of their ability in responding to Commerce's requests for information. For the reasons explained in the *Preliminary Determination,* and consistent with Commerce's practice, as AFA, we assigned these companies the highest corroborated dumping margin alleged in the petition.[5]

[1] *See Certain Paper Shopping Bags from the Republic of Turkey: Preliminary Affirmative Determination of Sales at Less Than Fair Value,* 89 FR 339 (January 3, 2024) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum.

[2] *See* Memorandum, ''Final Scope Decision Memorandum,'' dated concurrently with this notice (Final Scope Decision Memorandum).

[3] *See* Memorandum, ''Hearing Schedule,'' dated February 21, 2024.

[4] *See* Memorandum, ''Preliminary Scope Decision Memorandum,'' dated December 27, 2023 (Preliminary Scope Decision Memorandum).

[5] *See, e.g., Welded Stainless Pressure Pipe from Thailand: Final Determination of Sales at Less Than Fair Value,* 79 FR 31093 (May 30, 2014), and accompanying Issues and Decision Memorandum (IDM) at Comment 3; *see also* Checklist, ''Antidumping Duty Investigation Initiation Checklist,'' dated June 20, 2023 (Initiation Checklist); and Petitioner's Letter, ''Response of Petitioner to Volume IX Supplemental Questionnaire,'' dated June 12, 2023 at Exhibit IX–S9 (Petition Supplement). The petitioner consists of members of the Coalition for Fair Trade in Shopping Bags, which include Novolex Holdings, LLC and the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union.

All-Others Rate

As discussed in the *Preliminary Determination,* in the absence of a calculated estimated weighted-average dumping margin on the record of this investigation, and pursuant to section 735(c)(5) of the Act and its practice,[6] Commerce assigned a simple average of the dumping margins that were alleged in the Petition, *i.e.,* 26.32 percent,[7] to all other producers and exporters of subject merchandise that are not specifically listed in the table below.

Final Determination

Commerce determines that the following estimated dumping margins exist for the period, April 1, 2022, through March 31, 2023:

Exporter/producer	Estimated weighted-average dumping margin (percent)
Artpack Kagit Ambalaj Anonim Sirketi	*47.56
Oztas Ambalaj Sanayi ve Ticaret A.S	*47.56
Babet Kagitsilik	*47.56
Bati Kraft Torba Ambalaj	*47.56
BFT Packaging	*47.56
Cicupack Ambalaj	*47.56
Ekopack Kagit Ambalaj	*47.56
Elhadefler A.S	*47.56
Esda Pack Ambalaj	*47.56
Haypack Ambalaj	*47.56
Jefira Global Dis	*47.56
Kahramanmaraş Kağıt Sanayi ve Ticaret Anonim Şirketi	*47.56
Multi Kraft Ambalaj	*47.56
Rad Tekstil	*47.56
Suleyman Tabak Kagitcilik	*47.56
Sunvision Tekstil	*47.56
Umur Basim	*47.56
Yildez Paper Bag Ambalaj Pazarlama	*47.56
All Others	26.32

*Rate based on AFA.

Disclosure

Because Commerce received no comments on the *Preliminary Determination,* we have not modified our analysis and no decision memorandum accompanies this **Federal Register** notice. We are adopting the *Preliminary Determination* as the final determination in this investigation. Consequently, there are no new calculations to disclose in accordance with 19 CFR 351.224(b) for this final determination.

Continuation of Suspension of Liquidation

Commerce will direct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of entries of the merchandise described in the scope of this investigation where that merchandise was entered, or withdrawn from warehouse, for consumption on or after January 3, 2024, which is the date of publication of the *Preliminary Determination* in this investigation in the **Federal Register**. Pursuant to section 735(c)(1)(B)(ii) of the Act and 19 CFR 351.210(d), Commerce will also instruct CBP to require the posting of an antidumping duty cash deposit.

The cash deposit requirements are as follows: (1) the cash deposit rate for the companies listed in the table above will be equal to the company-specific estimated weighted-average dumping margin listed for the company in the table; (2) if the exporter of the subject merchandise is not identified in the table above, but the producer is, then the cash deposit rate will be equal to the company-specific estimated weighted-average dumping margin established for that producer of the subject merchandise; and (3) the cash deposit rate for all other producers and exporters of subject merchandise will be equal to the all-others estimated weighted-average dumping margin listed in the table above.

These suspension of liquidation instructions will remain in effect until further notice.

U.S. International Trade Commission Notification

In accordance with section 735(d) of the Act, Commerce will notify the U.S. International Trade Commission (ITC) of its final affirmative determination of sales at LTFV. Because the final determination in this proceeding is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, before the later of 120 days after the date that Commerce made its affirmative preliminary determination in this investigation or 45 days after the date of this final determination. If the ITC determines that material injury, or the threat of material injury, does not exist, the proceeding will be terminated, and all cash deposits will be refunded. If the ITC determines that material injury, or the threat of material injury, exists, Commerce will issue an antidumping duty order directing CBP to assess, upon further instruction by Commerce, antidumping duties on all imports of the subject merchandise, entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Administrative Protective Order

This notice serves as the only reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance

[6] *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Sodium Nitrite from the Federal Republic of Germany,* 73 FR 38986, 38987 (July 8, 2008), and accompanying IDM at Comment 2.

[7] *See* Initiation Checklist and Petition Supplement.

with 19 CFR 351.305(a)(3). Timely notification of the return, or destruction, of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and the terms of an APO is a violation subject to sanction.

Notification to Interested Parties

This determination and this notice are issued and published in accordance with sections 735(d) and 777(i) of the Act, and 19 CFR 351.210(c).

Dated: March 11, 2024.

Ryan Majerus,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix

Scope of the Investigation

The products within the scope of this investigation are paper shopping bags with handles of any type, regardless of whether there is any printing, regardless of how the top edges are finished (*e.g.,* folded, serrated, or otherwise finished), regardless of color, and regardless of whether the top edges contain adhesive or other material for sealing closed. Subject paper shopping bags have a width of at least 4.5 inches and depth of at least 2.5 inches.

Paper shopping bags typically are made of kraft paper but can be made from any type of cellulose fiber, paperboard, or pressboard with a basis weight less than 300 grams per square meter (GSM).

A non-exhaustive illustrative list of the types of handles on shopping bags covered by the scope include handles made from any materials such as twisted paper, flat paper, yarn, ribbon, rope, string, or plastic, as well as die-cut handles (whether the punchout is fully removed or partially attached as a flap).

Excluded from the scope are:

- paper sacks or bags that are of a 1/6 or 1/7 barrel size (*i.e.,* 11.5–12.5 inches in width, 6.5–7.5 inches in depth, and 13.5–17.5 inches in height) with flat paper handles or die-cut handles;
- paper sacks or bags with die-cut handles, a grams per square meter paper weight of less than 86 GSM, and a height of less than 11.5 inches; and
- paper sacks or bags (i) with non-paper handles made wholly of woven ribbon or other similar woven fabric [8] and (ii) that are finished with folded tops or for which tied knots or t-bar aglets (made of wood, metal, or plastic) are used to secure the handles to the bags.

The above-referenced dimensions are provided for paper bags in the opened position. The height of the bag is the distance from the bottom fold edge to the top edge (*i.e.,* excluding the height of handles that extend above the top edge). The depth of the bag is the distance from the front of the bag edge to the back of the bag edge (typically measured at the bottom of the bag). The width of the bag is measured from the left to the right edges of the front and back panels (upon which the handles typically are located).

This merchandise is currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 4819.30.0040 and 4819.40.0040. The HTSUS subheadings are provided for convenience and customs purposes only; the written description of the scope is dispositive.

[8] Paper sacks or bags with handles made of braided or twisted materials, such as rope or cord, do not qualify for this exclusion.

[FR Doc. 2024–05675 Filed 3–15–24; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XD806]

New England Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public hybrid meeting of its Enforcement Committee to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). This meeting will be held in-person with a webinar option. Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This meeting will be held on Tuesday, April 2, 2024, at 9 a.m.

ADDRESSES: This meeting will be held at the Hilton Garden Inn, 100 High Street, Portsmouth, NH 03801; telephone: (603) 431–1499.

Webinar registration URL information: *https://nefmc-org.zoom.us/webinar/register/WN_qfnCHO7USe2SML1X1VwXOA.*

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Cate O'Keefe, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Agenda

The Enforcement Committee will meet to discuss VMS as an enforcement tool. They will also discuss enforceability of closed area polygon boundaries as well as

VMS ping rates for Council-managed scallop fisheries. The Committee will discuss Enforcement issues around on-demand fishing gear. Other business will be discussed, if necessary.

Although non-emergency issues not contained on the agenda may come before this Council for discussion, those issues may not be the subject of formal action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency. The public also should be aware that the meeting will be recorded. Consistent with 16 U.S.C. 1852, a copy of the recording is available upon request.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Cate O'Keefe, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

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

Dated: March 13, 2024.

Rey Israel Marquez,

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

[FR Doc. 2024–05697 Filed 3–15–24; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XD772]

Endangered and Threatened Species; Take of Anadromous Fish

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

ACTION: Notice of receipt and availability; request for comments.

SUMMARY: Notice is hereby given that NMFS has received a permit application (25803) from NOAA's Southwest Fisheries Science Center Fisheries Ecology Division (FED) to continue hatchery activities associated with the Southern Coho Salmon Captive Broodstock Program (SCSCBP, or program) in accordance with its Hatchery and Genetic Management Plan (HGMP). The application has been submitted pursuant to the Endangered Species Act (ESA) of 1973, as amended. NMFS has also prepared a draft

environmental assessment (EA) under the National Environmental Policy Act (NEPA) describing the potential effects of NMFS' proposed issuance of the Permit associated with the submitted HGMP. NMFS is furnishing this notice in order to allow other agencies, Tribes, and the public an opportunity to review and comment on these documents.

DATES: Written comments on the EA must be received at the appropriate address (see **ADDRESSES**) on or before 5 p.m. Pacific standard time on April 17, 2024.

ADDRESSES: You may submit comments on the permit application and draft EA by the following methods:

- *Email:* Include ''Permit 25803'' in the subject line. *Joel.Casagrande@noaa.gov.*
- *Mail:* Submit written comments to National Marine Fisheries Service, West Coast Region, Coastal California Office, 777 Sonoma Avenue, Room 325, Santa Rosa, California 95404; Attn: Joel Casagrande.
- The permit application, and attached HGMP, may be viewed online at: *https://apps.nmfs.noaa.gov/preview/preview_open_for_comment.cfm.*
- The draft EA document is available at: *https://www.fisheries.noaa.gov/protected-resource-regulations.*

FOR FURTHER INFORMATION CONTACT: Joel Casagrande, Santa Rosa, CA, (707) 575–6016, email: *joel.casagrande@noaa.gov.*

SUPPLEMENTARY INFORMATION:

ESA-Listed Species Covered in This Notice

Coho salmon (*Oncorhynchus kisutch*): Endangered, Central California Coast (CCC) Evolutionary Significant Unit (ESU).

Background

The FED has applied for an enhancement permit under section 10(a)(1)(A) of the ESA for a period of 10 years that would allow take of multiple life stages of CCC coho salmon. Hatchery activities would be permitted pursuant to the HGMP for the SCSCBP, which is attached to the application.

The purpose of the SCSCBP is to advance the conservation, viability, and recovery of the CCC coho salmon ESU, with an emphasis on populations in the Santa Cruz Mountains Diversity Stratum. The activities proposed for the SCSCBP are consistent with both the Federal recovery plan and state recovery strategy for coho salmon. The SCSCBP directly addresses recovery action ScC–CCC–10.1.1.6 in the Final CCC Coho Salmon ESU Recovery Plan (NMFS 2012) by using captive rearing to: reduce the risk of extinction due to genetic and demographic processes; preserve locally adapted phenotypes and genotypes; and promote regional recovery via the release of hatchery fish into streams from which they have been extirpated.

The program is jointly operated by FED and the Monterey Bay Salmon and Trout Project (MBSTP), with technical support provided by U.S. Army Corps of Engineers, NMFS, and the California Department of Fish and Wildlife. The program consists of the following main activities: broodstock collection; propagation; tissue collection for genetic analyses and other pathology screenings; captive rearing of coho salmon; fish marking and tagging; and the release of coho salmon (egg to adult life stages) into program streams in the Santa Cruz Mountains.

The broodstock are derived predominantly from hatchery-reared coho salmon juveniles from artificial propagation, as well as a small number of natural-origin coho salmon from coastal streams of the Santa Cruz Mountains, and a small number of coho salmon from the Russian River Coho Salmon Captive Broodstock Program (natural origin fish sourced from the Russian River or Lagunitas/Olema Creek basins) used as outbreeders to improve genetic diversity. Captive broodstock are initially propagated and reared at the Kingfisher Flat Hatchery (KFH) in Santa Cruz County until they are yearlings, whereupon they are divided among three facilities and subsequently reared to maturity. The three facilities are: KFH; Don Clausen Fish Hatchery in Sonoma County; and FED laboratory facility in the City of Santa Cruz, California. Previously, the FED and MBSTP conducted program activities under section 10 (a)(1)(A) permits 1112 and 1083, respectively.

Activities that constitute take of CCC coho salmon and would be permitted include: (1) handling and transport of broodstock and production fish between program facilities and the natural environment; (2) captive rearing and associated activities, including tissue sample collection, marking, and tagging; and (3) sacrifice for artificial propagation and routine pathology screenings. The HGMP includes measures to minimize take and both genetic and ecological effects to naturally produced CCC coho salmon and CCC steelhead (*O. mykiss*) resulting from operations at the facilities and as a result of fish releases into program streams.

References Cited

National Marine Fisheries Service (NMFS). 2012. Final Recovery Plan for Central California Coast coho salmon Evolutionarily Significant Unit. National Marine Fisheries Service, Southwest Region, Santa Rosa, California.

Authority

Section 9 of the ESA and Federal regulations prohibit the taking of a species listed as endangered or threatened. The ESA defines ''take'' to mean harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. NMFS may issue permits for scientific purposes or for the enhancement of the propagation or survival of the affected endangered or threatened species authorizing the taking, importation, or other acts otherwise prohibited by section 9 of the Act (50 CFR 222.308). The final permit decision will not be made until after the end of the 30-day comment period. NMFS will publish notice of its final action in the **Federal Register**.

NEPA requires Federal agencies to conduct an environmental analysis of their proposed actions to determine if the actions may affect the human environment (42 U.S.C. 4321 *et seq.;* 40 CFR 1500–1508; and Companion Manual for NOAA Administrative Order 216–6A). Therefore, NMFS is seeking public input on the scope of the required NEPA analysis in the EA, including the range of reasonable alternatives and associated impacts of any alternatives.

Dated: March 12, 2024.

Angela Somma,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2024–05561 Filed 3–15–24; 8:45 am]

BILLING CODE 3510–22–P

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities: Notice of Intent To Renew Collection 3038–0095; Large Trader Reporting for Physical Commodity Swaps

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: The Commodity Futures Trading Commission (CFTC) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of

information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment. This notice solicits comments on the information collection requirements set out in the Commission's regulations concerning large trader reporting for physical commodity swaps.

DATES: Comments must be submitted on or before May 17, 2024.

ADDRESSES: You may submit comments, identified by ''3038–0095'' by any of the following methods:

- The Agency's website, at *https://comments.cftc.gov/.* Follow the instructions for submitting comments through the website.
- *Mail:* Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.
- *Hand Delivery/Courier:* Same as Mail above.

Please submit your comments using only one method and identify that it is for the renewal of Collection Number 3038–0095. All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to *https://www.cftc.gov.*

FOR FURTHER INFORMATION CONTACT: Jason Smith, Assistant Chief Counsel, Division of Market Oversight, Commodity Futures Trading Commission, (202) 418–5698; email: *jsmith@cftc.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA, 44 U.S.C. 3501 *et seq.,* Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of Information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3 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 provide a 60-day notice in the **Federal Register** concerning each proposed collection of information before submitting the collection to OMB for approval. To comply with this requirement, the CFTC is publishing notice of the proposed collection of information listed below.

Title: Large Trader Reporting for Physical Commodity Swaps (OMB Control No. 3038–0095). This is a request for extension of a currently approved information collection.

Abstract: Part 20 of the Commission's regulations (''Reporting Rules'') requires clearing organizations and any persons that are ''reporting entities'' to file swaps position data with the Commission. The Reporting Rules collect clearing member reports from clearing organizations. The Reporting Rules also require position reports from reporting entities for principal and counterparty positions in cleared and uncleared physical commodity swaps. Reporting entities are those persons that are either ''clearing members'' or ''swap dealers'' that are otherwise not clearing members. For purposes of part 20, reporting parties are required to submit data on positions on a futures equivalent basis so as to allow the Commission to assess a trader's market impact across differently structured but linked derivatives instruments and markets. This renewal updates the total requested burden based on available reported data.

With respect to the collection of information, the CFTC invites comment on:

- Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have a practical use;
- The accuracy of the Commission's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Ways to enhance the quality, usefulness, and clarity of the information to be collected; and
- Ways to minimize the burden of collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology; *e.g.,* permitting electronic submission of responses.

All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to *https://www.cftc.gov.* You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the Commission's regulations.[1] The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from *https://www.cftc.gov* that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the ICR will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the Freedom of Information Act.

Burden Statement: The Commission estimates the burden of this collection of information as follows:

Estimated Number of Respondents: 3,654.

Estimated Total Annual Number of Responses (Reporting and Recordkeeping): 33,325.

Estimated Average Burden Hours per Respondent: 14.33.

Estimated Total Annual Burden Hours: 52,366.

Frequency of Collection: Daily; On Occasion.

The Commission estimates that the annualized capital and start-up and operational and maintenance costs associated with this collection total $33,895,705.

(Authority: 44 U.S.C. 3501 *et seq.*)

Dated: March 13, 2024

Robert Sidman,

Deputy Secretary of the Commission.

[FR Doc. 2024–05718 Filed 3–15–24; 8:45 am]

BILLING CODE 6351–01–P

[1] 17 CFR 145.9.

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meetings

TIME AND DATE: Wednesday, March 20, 2024—10 a.m. (See **MATTERS TO BE CONSIDERED** for each meeting)

PLACE: Room 420, Bethesda Towers, 4330 East West Highway, Bethesda, MD.

STATUS: Commission Meetings—Open to the public (10:00 a.m.); Closed Meeting will follow immediately after conclusion of the public meeting.

MATTERS TO BE CONSIDERED:

Open Session

Decisional Matter on Notice of Proposed Rulemaking—Safety Standard For Bassinets and Cradles.

A live webcast of the meeting can be viewed at the following link: *https://cpsc.webex.com/cpsc/j.php?MTID=m468509775636536775a9a64934810080.*

Closed Session

Briefing matters.

CONTACT PERSON FOR MORE INFORMATION: Alberta E. Mills, Office of the Secretary, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814, 301–504–7479 (Office) or 240–863–8938 (Cell).

Dated: March 13, 2024.

Alberta E. Mills,

Commission Secretary.

[FR Doc. 2024–05747 Filed 3–14–24; 11:15 am]

BILLING CODE 6355–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2023–OS–0122]

Submission for OMB Review; Comment Request

AGENCY: Office of the Under Secretary of Defense for Personnel and Readiness (OUSD(P&R)), Department of Defense (DoD).

ACTION: 30-Day information collection notice.

SUMMARY: The DoD has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by April 17, 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: Mr. Reginald Lucas, (571) 372–7574, *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Defense Advisory Committee on Women in the Services (DACOWITS) Annual Installation Visit Focus Groups; 0704–DACW.

Type of Request: New.

Number of Respondents: 720.

Responses per Respondent: 1.

Annual Responses: 720.

Average Burden per Response: 90 minutes.

Annual Burden Hours: 1080.

Needs and Uses: The Defense Advisory Committee on Women in the Services (DACOWITS) provides independent advice and recommendations to the Secretary of Defense on matters and policies relating to the recruitment, retention, employment, integration, well-being, and treatment of women in the Armed Forces of the United States, via a comprehensive annual report. DACOWITS collects qualitative data from focus groups and interactions with Service members during installation visits. The focus groups will be conducted with Service members (both male and female; officer and enlisted) from each of the Military Services. The research and data gathered through focus group responses will be analyzed in order to provide the Committee with vital information and input needed to create, support, and provide justification and reasoning for their recommendations.

Affected Public: Individuals or Households.

Frequency: Once.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Jasmeet Seehra.

You may also submit comments and recommendations, identified by Docket ID number and title, by the following method:

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

Instructions: All submissions received must include the agency name, Docket ID number, and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DOD Clearance Officer: Mr. Reginald Lucas.

Requests for copies of the information collection proposal should be sent to Mr. Reginald Lucas at *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

Dated: March 12, 2024.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2024–05668 Filed 3–15–24; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2024–OS–0023]

Proposed Collection; Comment Request

AGENCY: Office of the Under Secretary of Defense for Personnel and Readiness (OUSD(P&R)), Department of Defense (DoD).

ACTION: 60-Day information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* OUSD(P&R) announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by May 17, 2024.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

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

Mail: Department of Defense, Office of the Assistant to the Secretary of Defense for Privacy, Civil Liberties, and Transparency, 4800 Mark Center Drive, Mailbox #24, Suite 08D09, Alexandria, VA 22350–1700.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to Office of the Deputy Assistant Secretary of Defense, Military

Personnel Policy, Office of Financial Readiness, 1400 Defense Pentagon, Washington, DC 20301–1400, Tamara Moller, 703–697–9188/571–419–1650.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: FINRED Card Sorting User Testing of the Financial Readiness website; OMB Control Number 0704–CFRW.

Needs and Uses: The purpose of the FINRED Card Sorting User Testing of the Financial Readiness website (User Testing/Usability Study) is to provide key metrics to the Office of Financial Readiness to support DoD Instruction (DoDI) 1322.34 ''Financial Readiness of Service Members''. The User Testing/Card Sorting Usability Study will provide results from the collection of opinions, ideas, and concerns from members of the military community on their level of satisfaction with the taxonomy and navigation of the FINRED website. Results will also provide a new taxonomy of the FINRED website, that will allow the Office of Financial Readiness to adjust the layout and organization of the website to meet the needs and layout of what the users intend to find when on the website. This study will be used only for research purposes and the results and recommendations will be anonymous when shared with government officials.

Affected Public: Individuals and Households.

Annual Burden Hours: 40.

Number of Respondents: 200.

Responses per Respondent: 1.

Annual Responses: 200.

Average Burden per Response: 12 minutes.

Frequency: Once.

Dated: March 12, 2024.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2024–05689 Filed 3–15–24; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2024–OS–0024]

Proposed Collection; Comment Request

AGENCY: Office of the Under Secretary of Defense (Comptroller)/Chief Financial Officer, Department of Defense (DoD).

ACTION: 60-Day information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Defense Finance and Accounting Service announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by May 17, 2024.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

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

Mail: Department of Defense, Office of the Assistant to the Secretary of Defense for Privacy, Civil Liberties, and Transparency, 4800 Mark Center Drive, Mailbox #24, Suite 08D09, Alexandria, VA 22350–1700.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to Defense Finance and Accounting Services, 8899 E 56th St, Indianapolis, IN 46249, ATTN: Ms. Kellen Stout, or call 317–212–1801.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Secondary Dependency Application; DD Form 137; OMB Control Number 0730–0014.

Needs and Uses: The information collection requirement is necessary to certify dependency or obtain information to determine entitlement to basic allowance for housing (BAH) with dependent rate, travel allowance, or uniformed services identification and privilege card. Information regarding a parent, an incapacitated child over age 21, a student age 21–22, or a ward of a court is provided by the military member. A medical doctor or psychiatrist, college administrator, or a dependent's employer may need to provide information for claims. Pursuant to 37 U.S.C. 401, 403, 406, and 10 U.S.C. 1072 and 1076, the member must provide more than one half of the claimed dependent's monthly expenses. DoDFMR 7000.14–R, Vol 7A, defines dependency and directs that dependency be proven. Dependency claim examiners use the information from these forms to determine the degree of benefits. The requirement to provide the information decreased the possibility of monetary allowances being approved on behalf of ineligible dependents.

Affected Public: Individuals or households.

Annual Burden Hours: 7,487.5.

Number of Respondents: 14,975.

Responses per Respondent: 1.

Annual Responses: 14,975.

Average Burden per Response: 30 minutes.

Frequency: On occasion.

Dated: March 12, 2024.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2024–05688 Filed 3–15–24; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2024–HA–0021]

Proposed Collection; Comment Request

AGENCY: The Office of the Assistant Secretary of Defense for Health Affairs (OASD(HA)), Department of Defense (DoD).

ACTION: 60-Day information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Defense Health Agency (DHA) announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the

burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by May 17, 2024.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

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

Mail: Department of Defense, Office of the Assistant to the Secretary of Defense for Privacy, Civil Liberties, and Transparency, 4800 Mark Center Drive, Mailbox #24, Suite 08D09, Alexandria, VA 22350–1700.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to Defense Health Agency, 7700 Arlington Blvd., Falls Church, VA 22042, Amanda Grifka, 703–681–1771.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Reserve Component Health Coverage Request; DD Form 2896–1; OMB Control Number 0720–RCHC.

Needs and Uses: DD Form 2896–1 is used by certain Reserve Component members and retired members to purchase or make changes to coverage under the TRICARE Reserve Select and TRICARE Retired Reserve (TRR) health plan. Eligible beneficiaries must complete this form using the online Beneficiary Web Enrollment (BWE) portal. Each respondent (eligible Reserve Component members and retired members) is required to use the BWE portal to enroll, disenroll or change their enrollment. The information collected ensures a beneficiary is eligible for TRICARE and his/her TRICARE enrollment is correctly updated to reflect their TRICARE plan of choice, address, etc. If the beneficiary does use the form or BWE portal to enroll in a TRICARE plan option, the TRICARE beneficiary is defaulted into direct care only, limiting their health care options to only military hospitals and clinics.

Affected Public: Individuals or households.

Annual Burden Hours: 61,017.5.

Number of Respondents: 122,035.

Responses per Respondent: 2.

Annual Responses: 244,070.

Average Burden per Response: 15 minutes.

Frequency: As required.

Dated: March 12, 2024.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2024–05692 Filed 3–15–24; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DOD–2023–OS–0092]

Submission for OMB Review; Comment Request

AGENCY: Office of the Under Secretary of Defense for Personnel and Readiness (OUSD(P&R)), Department of Defense (DoD).

ACTION: 30-Day information collection notice.

SUMMARY: The DoD has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by April 17, 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: Mr. Reginald Lucas, 571–372–7574, or *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

SUPPLEMENTARY INFORMATION: Section 572 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2013 required commanders of each military command to conduct a climate assessment of the command or unit for purposes of preventing sexual assault. A subsequent November 2015 memo from the Acting Under Secretary of Defense for Personnel and Readiness (USD P&R), and further a 2022 DoD Instruction (DoDI 6400.11) designated the DEOCS as the survey tool to support the NDAA requirement for a DoD command climate assessment program. A DEOCS is conducted annually in all active duty and Reserve component DoD units and DoD civilian personnel organizations. Also included in the DEOCS population are active duty and Reserve component members of the Coast Guard, students and staff at the US Merchant Marine Academy, and foreign nationals working for the DoD. The survey is web-based and is a census of the commander's unit. The core survey questions are organized into three main categories that include (1) unit experience, (2) leadership, and (3) behaviors and personal experience. The DEOCS includes a module collecting information on the attitudes and experiences of Active duty and Reserve component military members related to racial/ethnic relations in the military. The module content is derived from the Armed Forces Workplace and Equal Opportunity (WEO) survey (OMB license 0704–0631) and provides primary data on estimated prevalence rates of racial/ethnic harassment and discrimination and climate that is required by the Secretary of Defense biennially (Esper 2020). To reduce survey burden for Active and Reserve component members, key measures previously collected under OMB license 0704–0659 will be included as a module to the DEOCS for a subset of Active and Reserve component DEOCS respondents.

Title; Associated Form; and OMB Number: Defense Organizational Climate Survey (DEOCS) 5.1; OMB Control Number 0704–0659.

Type of Request: Revision.

Number of Respondents: 1,589,098.

Responses per Respondent: 1.

Annual Responses: 1,589,098.

Average Burden per Response: 35 minutes.

Annual Burden Hours: 926,974.

Needs and Uses: The purpose of the Defense Organizational Climate Survey (DEOCS) is to assess command climate at the unit/organizational level across the Department of Defense (DoD) and serves as a tool, helping commanders and leaders improve their command climate. Military commanders and DoD civilian organization leaders are required to administer a DEOCS to their unit or organization annually. The DEOCS was initially developed in response to DoD Instruction (DoDI) 1350.2 which mandated the creation of a Military Equal Opportunity program as well as the administration of a command climate assessment. The National Defense Authorization Act (NDAA) for FY 2013 (Section 572)—and amended by section 1721 of the NDAA FY 2014—further mandates the climate

assessment within all DoD organizations for purposes of preventing sexual assaults. A subsequent November 2015 memo from the Acting Under Secretary of Defense for Personnel and Readiness (USD P&R) designated the DEOCS as the survey tool to support the NDAA requirement for a DoD command climate assessment program. A May 2019 memo from the Acting Secretary of Defense directed that the goals of the DEOCS include developing and providing leaders with assessment tools to ''help them with developing an appropriate course of action from a suite of interventions and provide them with feedback on their impact of their efforts.'' The DoD Instruction (DoDI) 6400.11 further specified the requirements for DEOCS fielding.

The DEOCS will be administered to Active Duty and Reserve component members, DoD Civilians, and Military Service Academy (MSA) and MSA Preparatory School members (hereafter, MSA Prep School) in order to meet this statutory requirement for the DoD. The universe of the DoD community also includes foreign nationals who are employed by the DoD. Additionally, the DEOCS will also include Active, Reserve, and MSA components of the United States Coast Guard and students/staff at the United States Merchant Marine Academy. The DEOCS includes a module fielded to a subset of Active Duty and Reserve component members to collect information on their attitudes and experiences related to racial/ethnic relations in the military.

The statutory and policy requirements for the DEOCS, including the module, can be found in the following:

- FY13 NDAA, Section 572
- FY14 NDAA, Section 1721
- DoD Instruction (DoDI) 6400.11, ''DoD Integrated Primary Prevention Policy for Prevention Workforce and Leaders''
- DoD Instruction (DoDI) 1350.2, ''DoD Military Equal Opportunity Program''
- Immediate Actions to Improve Diversity & Inclusion (Esper, 2020)

Affected Public: Individuals and Households.

Frequency: As required.

Unit commanders and organizational leaders must administer a DEOCS yearly, within the annual fielding window, unless they are unable to do so as a result of mission requirements. The annual fielding window for the DEOCS 5.1 is from August 1 to November 30, however, the DEOCS is available for fielding continuously throughout the year for units or organizations that cannot field during the survey window. Currently, there is not a standardized method for defining at which level in the hierarchy units are required to take the DEOCS, how to define a unit, or how to define unit membership. As a result, there may be overlap between DEOCS units resulting in individuals taking more than one DEOCS. DoDI 6400.11 was established in 2022 and reduces occurrences of overlapping DEOCS. The DEOCS module is field in response to a 2020 Secretary of Defense action memorandum (Esper, 2020) requiring the biennial survey of Active Duty and Reserve component members regarding their attitudes and experiences related to racial/ethnic relations in the military and replaces (OMB Control Number 0704–0659) to reduce cost and survey burden.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Jasmeet Seehra.

You may also submit comments and recommendations, identified by Docket ID number and title, by the following method:

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

Instructions: All submissions received must include the agency name, Docket ID number, and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DOD Clearance Officer: Mr. Reginald Lucas.

Requests for copies of the information collection proposal should be sent to Mr. Reginald Lucas at *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil*.

Dated: March 12, 2024.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2024–05666 Filed 3–15–24; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2023–HA–0105]

Submission for OMB Review; Comment Request

AGENCY: Office of the Assistant Secretary of Defense for Health Affairs (OASD(HA)), Department of Defense (DoD).

ACTION: 30-Day information collection notice.

SUMMARY: The DoD has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by April 17, 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: Mr. Reginald Lucas, 571–372–7574, or *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil*.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Fielding Successful Medical Products Survey; OMB Control Number 0720–VOIP.

Type of Request: New.

Number of Respondents: 50.

Responses per Respondent: 1.

Annual Responses: 50.

Average Burden per Response: 30 minutes.

Annual Burden Hours: 25.

Needs and Uses: As part of 59th Medical Wing's Science & Technology, Technology Transfer and Transition (59 MDW/ST–T3) Office's continuous process improvement effort, this proposed information collection will gather feedback from companies which have successfully developed and marketed commercially-available medical products to the DoD over the last five (5) years. The questionnaire elicits information about (a) funding streams, processes, ideas, partnerships, and pathways, (b) Food & Drug Administration (FDA) approval/clearance, (c) teaming arrangements, management strategies, and leadership approaches, and (d) barriers and enablers to marketing to the DoD. By performing this market analysis, we aim to develop actionable, data-driven recommendations for improving acquisition of innovative medical solutions. An analysis of responses permits a clear understanding how the DoD can influence, emulate, and facilitate successful production and provisioning of new/novel medical products (capabilities) to address existing requirements or enhance existing medical/health capabilities.

Specifically, this effort will support the DHA's mission of driving innovative solutions to improve health and build readiness.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Jasmeet Seehra.

You may also submit comments and recommendations, identified by Docket ID number and title, by the following method:

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

Instructions: All submissions received must include the agency name, Docket ID number, and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DOD Clearance Officer: Mr. Reginald Lucas.

Requests for copies of the information collection proposal should be sent to Mr. Reginald Lucas at *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

Dated: March 12, 2024.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2024–05664 Filed 3–15–24; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2023–OS–0086]

Submission for OMB Review; Comment Request

AGENCY: Office of the Under Secretary of Defense for Personnel and Readiness (OUSD(P&R)), Department of Defense (DoD).

ACTION: 30-Day information collection notice.

SUMMARY: The DoD has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by April 17, 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: Mr. Reginald Lucas, (571) 372–7574, *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Election Administration and Voting Survey (EAVS) Section B Data Standard (ESB Data Standard); OMB Control Number 0704–0597.

Type of Request: Extension.

Number of Respondents: 827.

Responses per Respondent: 1.

Annual Responses: 827.

Average Burden per Response: 5 hours.

Annual Burden Hours: 4,135.

Needs and Uses: To help better assist Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) voters, Federal Voting Assistance Program (FVAP) and the Council of State Governments worked to refine a transformative new data schema called the Election Administration and Voting Survey (EAVS) Section B (ESB) Data Standard. The ESB Data Standard builds on other data standardization efforts and allows FVAP to analyze the three key parts of the voting process: (1) Ballot request, (2) ballot transmission, and (3) ballot return. With this transactional-level data, FVAP will be able to analyze the voters experience from start to finish, identifying drivers for success, and uncovering any areas within the UOCAVA voting process which could be improved upon.

Frequency: Annually.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Jasmeet Seehra.

You may also submit comments and recommendations, identified by Docket ID number and title, by the following method:

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

Instructions: All submissions received must include the agency name, Docket ID number, and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DOD Clearance Officer: Mr. Reginald Lucas.

Requests for copies of the information collection proposal should be sent to Mr. Lucas at *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

Dated: March 12, 2024.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2024–05665 Filed 3–15–24; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF DEFENSE

Office of the Secretary

U.S. Strategic Command Strategic Advisory Group; Notice of Federal Advisory Committee Closed Meeting

AGENCY: Office of the Chairman of the Joint Chiefs of Staff, Department of Defense (DoD).

ACTION: Notice of Federal Advisory Committee closed meeting.

SUMMARY: The DoD is publishing this notice to announce that the following Federal Advisory Committee meeting of the U.S. Strategic Command Strategic Advisory Group will take place.

DATES: Closed to the public Wednesday, April 10, 2024, from 3:00 p.m. to 5:00 p.m.

ADDRESSES: 900 SAC Boulevard, Offutt AFB, Nebraska 68113.

FOR FURTHER INFORMATION CONTACT: Mr. Derrick J. Besse, Designated Federal Officer (DFO), (402) 912–0322 (Voice), *derrick.j.besse.civ@mail.mil* (Email). Mailing address is 900 SAC Boulevard, Suite N3.170, Offutt AFB, Nebraska 68113.

SUPPLEMENTARY INFORMATION: This meeting is being held under the provisions of chapter 10 of title 5 United States Code (U.S.C.) (commonly known as the Federal Advisory Committee Act or FACA), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.140.

Purpose of the Meeting: The purpose of the meeting is to provide advice on scientific, technical, intelligence, and policy-related issues to the Commander, U.S. Strategic Command, during the development of the Nation's strategic war plans.

Agenda: Topics include: Disruptive Technologies, Implications of the developing Arctic Presence, Mixed Munition Load Outs, Artificial Intelligence/Machine Learning, Industrial Base Challenges to simultaneous modernization of the Nuclear Force, and Annual Stockpile Assessment.

Meeting Accessibility: Pursuant to 5 U.S.C. 552b, and 41 CFR 102–3.155, the DoD has determined that the meeting shall be closed to the public. Per delegated authority by the Chairman, Joint Chiefs of Staff, General Anthony J. Cotton, Commander, U.S. Strategic Command, in consultation with his legal advisor, has determined in writing that the public interest requires that all sessions of this meeting be closed to the public because they will be concerned with matters listed in 5 U.S.C. 552b(c)(1).

Written Statements: Pursuant to 41 CFR 102–3.140(c), the public or interested organizations may submit written statements to the membership of the Strategic Advisory Group at any time or in response to the stated agenda of a planned meeting. Written statements should be submitted to the Strategic Advisory Group's DFO; the DFO's contact information can be obtained from the GSA's FACA Database—*http://www.facadatabase.gov/.* Written statements that do not pertain to a scheduled meeting of the Strategic Advisory Group may be submitted at any time. However, if individual comments pertain to a specific topic being discussed at a planned meeting, then these statements must be submitted no later than five business days prior to the meeting in question. The DFO will review all submitted written statements and provide copies to all the committee members.

Dated: March 12, 2024.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2024–05655 Filed 3–15–24; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2023–OS–0048]

Submission for OMB Review; Comment Request

AGENCY: Office of the Under Secretary of Defense for Personnel and Readiness (OUSD(P&R)), Department of Defense (DoD).

ACTION: 30-Day information collection notice.

SUMMARY: The DoD has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by April 17, 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: Reginald Lucas, 571–372–7574, or *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Sexual Assault Prevention and Response Personnel; OMB Control Number 0704–0603.

Type of Request: Extension.

Number of Respondents: 5,000.

Responses per Respondent: 1.

Annual Responses: 5,000.

Average Burden per Response: 20 minutes.

Annual Burden Hours: 1,667.

Needs and Uses: The QuickCompass of Sexual Assault Prevention and Response Personnel (QSAPR) assesses perceived reprisal or retaliation to incidents (professionally or otherwise), access to sufficient physical and mental health services as a result of the nature of their work, access to installation and unit commanders, access to both victims' and alleged offenders' immediate commander(s), responsiveness of commanders to Sexual Assault Response Coordinators (SARCs), support and services provided to sexual assault victims, understanding of others of the process and their willingness to assist, adequacy of training received by SARCs and Sexual Assault Prevention and Response (SAPR) Victims' Advocates (VAs) to effectively perform their duties, and other factors affecting the ability of SARCs and SAPR VAs to perform their duties. In addition, the results of the survey will assess progress, identify shortfalls, and revise policies and programs as needed. Data will be aggregated and reported triennially in perpetuity. Ultimately, the study will provide a report to Congress and all the data, programs, and computational details necessary for replication and peer review.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Jasmeet Seehra.

You may also submit comments and recommendations, identified by Docket ID number and title, by the following method:

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

Instructions: All submissions received must include the agency name, Docket ID number, and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DOD Clearance Officer: Mr. Reginald Lucas.

Requests for copies of the information collection proposal should be sent to Mr. Lucas at *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

Dated: March 12, 2024.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2024–05667 Filed 3–15–24; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2024–OS–0022]

Proposed Collection; Comment Request

AGENCY: Office of the Under Secretary of Defense for Intelligence and Security (OUSD(I&S)), Department of Defense (DoD).

ACTION: 60-Day information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Defense Counterintelligence and Security Agency announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by May 17, 2024.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

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

Mail: Department of Defense, Office of the Assistant to the Secretary of Defense for Privacy, Civil Liberties, and Transparency, 4800 Mark Center Drive, Mailbox #24, Suite 08D09, Alexandria, VA 22350–1700.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to Defense Counterintelligence and Security Agency, Operational Policy and Procedures Group, ATTN: Thomas A. Giancoli, 1901 S Bell Street, 5th Floor, Arlington, VA 22202, 703–582–6108.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Federal Background Investigation and Personnel Vetting Investigative Request Forms; INV Forms 40–44; OMB Control Number 0705–0003.

Needs and Uses: The INV 40, 41, 42, 43, and 44 are used to collect information from a multitude of record sources to support federal background investigation and personnel vetting processes such as: investigations and determinations of eligibility for access to classified national security information, and for access to special access programs; suitability for federal employment; fitness of contractor personnel to perform work for or on behalf of the U.S. Government. The INV 40 is used to collect records from a Federal or State record repository or a credit bureau. The INV 44 is used to collect law enforcement data from a criminal justice agency. The INV 41, 42, and 43 are sent to employment references, associates, and educational institutions. The INV 40, 41, 43, and 44 contain the individual's full name, date of birth (DOB), and full Social Security Number (SSN). The INV 42 (Personal Information) does not include the subject's SSN or DOB.

Affected Public: Individuals or households.

Annual Burden Hours: 237,506.

Number of Respondents: 2,850,071.

Responses per Respondent: 1.

Annual Responses: 2,850,071.

Average Burden per Response: 5 minutes.

Frequency: On occasion.

Dated: March 12, 2024.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2024–05690 Filed 3–15–24; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF DEFENSE

Department of the Navy

[Docket ID: USN–2024–HQ–0004]

Proposed Collection; Comment Request

AGENCY: Headquarters Marine Corps (HQMC), Department of the Navy (DON), Department of Defense (DoD).

ACTION: 60-Day information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Marine Corps Community Services announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by May 17, 2024.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

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

Mail: Department of Defense, Office of the Assistant to the Secretary of Defense for Privacy, Civil Liberties, and Transparency, 4800 Mark Center Drive, Mailbox #24, Suite 08D09, Alexandria, VA 22350–1700.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to Headquarters Marine Corps Records, Reports, Directives, and Forms Management Section, 3000 Marine Corps, Pentagon Rm. 2B253, Mr. Mark Kazzi, (571) 256–8883.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Marine Corps Community Services Nonappropriated Funds Procurement Collections; OMB Control Number 0712–ECMS.

Needs and Uses: Marine Corps Community Services (MCCS) procurement offices obtain supplies, services, and construction activities for MCCS in a fair, equitable, and impartial manner in compliance with applicable laws and regulations pertaining to nonappropriated funds (NAF). The proposed NAF Enterprise Contract Management System (ECM) is needed to effectively solicit, evaluate, and track MCCS and other Marine Corps Nonappropriated Fund Instrumentality (NAFI) purchasing and contracting activities. The collected information will be used to conduct NAF contracting actions, ensure regulatory requirements are met, and provide supporting data for internal statistical analysis, tracking, and reporting requirements.

Affected Public: Businesses or other for-profit; Not-for-profit Institutions.

Annual Burden Hours: 1,808.

Number of Respondents: 849.

Responses per Respondent: 1.

Annual Responses: 849.

Average Burden per Response: 2.13 hours.

Frequency: On occasion.

Respondents are private sector contractors, vendors, or offerors (hereinafter collectively referred to as contractors) who intend to conduct business activities with MCCS or other Marine Corps NAFIs. The contractors respond to opportunities to qualify for and receive a contract award by documenting business eligibility requirements; providing quotes, proposals, and contract modifications; and documenting areas of responsibility. The information

collected will vary depending on the type and complexity of the contract. Information will be submitted via FedConnect online services or mailed directly to MCCS, depending on the contract type.

Dated: March 12, 2024.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2024–05691 Filed 3–15–24; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2024–SCC–0039]

Agency Information Collection Activities; Comment Request; U.S. Department of Education Pre-Authorized Debit Account Brochure and Application

In notice document 2024–04450 beginning on page 15559 in the issue of Monday, March 4, 2024, make the following correction:

On page 15559, in the third column, under **DATES**, in the second line ''APRIL 29, 2024'' should read ''May 3, 2024''.

[FR Doc. C1–2024–04450 Filed 3–15–24; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF EDUCATION

[Docket No.: ED–2024–SCC–0004]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Office of State Support Progress Check Quarterly Protocol

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 April 17, 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: Office of State Support Progress Check Quarterly Protocol.

OMB Control Number: 1810–0733.

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: 212.

Total Estimated Number of Annual Burden Hours: 636.

Abstract: The Office of School Support and Accountability (SSA) administers Title I, Sections 1001–1004 (School Improvement); Title I, Part A (Improving Basic Programs Operated by Local Educational Agencies); Title I, Part B Grants for State Assessments and Related Activities; Title II, Part A (Supporting Effective Instruction); Title I, Part D (Neglected, Delinquent, or At-Risk); Title IV, Part B (21st Century Community Learning Centers); and McKinney-Vento Education for Homeless Children and Youth Program. Quarterly progress checks, phone or in-person conversations every three months of a fiscal year with State directors and coordinators, help ensure that State Educational Agencies (SEAs) are making progress toward increasing student achievement and improving the quality of instruction for all students through regular conversations about the quality of SEA implementation of SSA administered programs. The information shared with SSA helps inform the selection and delivery of technical assistance to SEAs and aligns structures, processes, and routines so SSA can regularly monitor the connection between grant administration and intended outcomes. Progress checks also allow SSA to proactively engage with SEAs to identify any issues ahead of formal monitoring visits, decreasing the need for enforcement actions and minimizing burden for SEAs. This is a request for a renewal without change of this collection.

Dated: March 13, 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. 2024–05684 Filed 3–15–24; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Tests Determined To Be Suitable for Use in the National Reporting System for Adult Education

AGENCY: Office of Career, Technical, and Adult Education, Department of Education.

ACTION: Notice.

SUMMARY: The Secretary announces an extension of the sunset period for English as a Second Language (ESL) tests with National Reporting System for Adult Education (NRS) approvals that expired on February 2, 2024. The sunset period for these tests is extended to June 30, 2025. This notice relates to the approved information collections under OMB control numbers 1830–0027 and 1830–0567.

FOR FURTHER INFORMATION CONTACT: John LeMaster, Department of Education, 400 Maryland Avenue SW, Washington, DC 20202. Telephone: (202) 987–0903. Email: *John.LeMaster@ed.gov.*

If you are deaf, hard of hearing, or have a speech disability and wish to access telecommunications relay services, please dial 7–1–1.

SUPPLEMENTARY INFORMATION: On July 13, 2023, the Secretary published in the **Federal Register** (88 FR 44784) an annual notice announcing tests determined to be suitable for use in the NRS, in accordance with 34 CFR 462.13 (July 2023 notice). The July 2023 notice identified three new tests that measure the NRS educational functioning levels

for Adult Basic Education (ABE) and four new tests that measure the new NRS educational functioning levels for ESL. With the Secretary's approval of the new ESL tests in the July 2023 notice, the new educational functioning levels for ESL described in appendix A of Measures and Methods for the National Reporting System for Adult Education (OMB Control Number: 1830–0027) were implemented.

Under the transition rules in § 462.4, the Secretary also announced in the July 2023 notice a list of tests with NRS approvals expiring on February 2, 2024, and March 7, 2024, that States and local eligible providers may continue to use during a sunset period ending on June 30, 2024.

In this notice, under the transition rules in § 462.4, the Secretary announces that the sunset period for ESL tests scheduled to sunset on June 30, 2024, is extended through June 30, 2025. This extension of the sunset period will allow States sufficient time for the operational activities required for the transition to the new ESL assessments identified in the July 2023 notice.

The ESL educational functioning level descriptors to which the ESL tests with expiring NRS approvals are aligned and that were scheduled to be retired on June 30, 2024, are extended through June 30, 2025. Until that time, both the current ESL educational functioning level descriptors and the new ESL educational functioning level descriptors will be in effect. States must use an ESL assessment that is aligned to the appropriate ESL educational functioning level descriptors.

Adult education programs must use only the forms and computer-based delivery formats for the tests approved in this notice. If a particular test form or computer delivery format is not explicitly specified for a test in this notice, it is not approved to measure educational gain in the NRS.

Tests With NRS Approvals That Expired on February 2, 2024, Previously Allowed for Use in the NRS During a Sunset Period Ending on June 30, 2024, and Now Allowed for Use During an Extended Sunset Period Ending on June 30, 2025

The Secretary has determined that the following tests may be used at all ESL levels of the NRS during an extended sunset period ending on June 30, 2025:

(1) *Basic English Skills Test (BEST) Literacy.* Forms B, C, and D are approved for use on paper. Publisher: Center for Applied Linguistics, 4646 40th Street NW, Washington, DC 20016–1859. Telephone: (202) 362–0700. Internet: *www.cal.org.*

(2) *Basic English Skills Test (BEST) Plus 2.0.* Forms D, E, and F are approved for use on paper and through the computer-adaptive delivery format. Publisher: Center for Applied Linguistics, 4646 40th Street NW, Washington, DC 20016–1859. Telephone: (202) 362–0700. Internet: *www.cal.org.*

(3) *Comprehensive Adult Student Assessment Systems (CASAS) Life and Work Listening Assessments (LW Listening).* Forms 981L, 982L, 983L, 984L, 985L, and 986L are approved for use on paper and through the computer-based delivery format. Publisher: CASAS, 5151 Murphy Canyon Road, Suite 220, San Diego, CA 92123–4339. Telephone: (800) 255–1036. Internet: *www.casas.org.*

(4) *Comprehensive Adult Student Assessment Systems (CASAS) Reading Assessments (Life and Work, Life Skills, Reading for Citizenship, Reading for Language Arts—Secondary Level).* Forms 27, 28, 81, 82, 81X, 82X, 83, 84, 85, 86, 185, 186, 187, 188, 310, 311, 513, 514, 951, 952, 951X, and 952X of this test are approved for use on paper and through the computer-based delivery format. Publisher: CASAS, 5151 Murphy Canyon Road, Suite 220, San Diego, CA 92123–4339. Telephone: (800) 255–1036. Internet: *www.casas.org.*

(5) *Tests of Adult Basic Education Complete Language Assessment System-English (TABE/CLAS–E).* Forms A and B are approved for use on paper and through a computer-based delivery format. Publisher: Data Recognition Corporation—CTB, 13490 Bass Lake Road, Maple Grove, MN 55311. Telephone: (800) 538–9547. Internet: *www.tabetest.com.*

Revocation of Tests

Under certain circumstances—that is, a determination by the Secretary either that the information the publisher submitted as a basis for the Secretary's review of the test was inaccurate or that a test has been substantially revised—the Secretary may revoke the determination that a test is suitable after following the procedures in § 462.12(e). If the Secretary revokes the determination of suitability, the Secretary announces the revocation, as well as the date by which States and local eligible providers must stop using the revoked test, through a notice published in the **Federal Register** and posted on the internet at *www.nrsweb.org.*

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.

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.

Program Authority: 29 U.S.C. 3292.

Amy Loyd,

Assistant Secretary for Career, Technical, and Adult Education.

[FR Doc. 2024–05679 Filed 3–15–24; 8:45 am]

BILLING CODE 4000–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2023–0317; FRL–11157–03–OAR]

Release of Volumes 1 and 2 of the Integrated Review Plan for the Primary National Ambient Air Quality Standards for Oxides of Nitrogen

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: On or about March 18, 2024, the Environmental Protection Agency (EPA) is making available to the public Volumes 1 and 2 of the *Integrated Review Plan for the Primary National Ambient Air Quality Standards for Oxides of Nitrogen* (IRP). The national ambient air quality standards (NAAQS) for oxides of nitrogen are set to protect public health from nitrogen dioxide (NO_2) in ambient air. Volume 1 of the IRP contains contextual background material for the current review of the air quality criteria and the primary NAAQS for oxides of nitrogen. Volume 2

identifies policy-relevant issues in the review and describes key considerations in the EPA's development of the Integrated Science Assessment (ISA). The ISA provides the scientific basis for the EPA's decisions, in conjunction with additional technical and policy assessments, for the review of the NAAQS, as described in sections 108 and 109 of the Clean Air Act.

DATES: Comments must be received on or before April 17, 2024.

ADDRESSES: You may send comments on Volume 2 of the IRP, identified by Docket ID No. EPA–HQ–OAR–2023–0317, by any of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov/* (our preferred method). Follow the online instructions for submitting comments.
- *Mail:* U.S. Environmental Protection Agency, EPA Docket Center, Office of Air and Radiation Docket, Mail Code 28221T, 1200 Pennsylvania Avenue NW, Washington, DC 20460.
- *Hand Delivery or Courier:* EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Avenue NW, Washington, DC 20004. The Docket Center's hours of operation are 8:30 a.m.–4:30 p.m., Monday–Friday (except Federal Holidays).

Instructions: All submissions received must include the Docket ID No. for this notice. Comments received may be posted without change to *https://www.regulations.gov,* including any personal information provided. For detailed instructions on sending comments, see the **SUPPLEMENTARY INFORMATION** section of this document. The two volumes described here will be available on the EPA's website at *https://www.epa.gov/naaqs/nitrogen-dioxide-no2-primary-air-quality-standards.* The documents will be accessible under ''Planning Documents'' from the current review.

FOR FURTHER INFORMATION CONTACT: Dr. Iman Hassan, Office of Air Quality Planning and Standards, (Mail Code C504–06), U.S. Environmental Protection Agency, 109 T.W. Alexander Drive, P.O. Box 12055, Research Triangle Park, NC 27711; telephone number: 919–541–2198; or email: *hassan.iman@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

Written Comments

Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2023–0317, at *https://www.regulations.gov* (our preferred method), or the other methods identified in the **ADDRESSES** section. Once submitted, comments cannot be edited or removed from the docket. The EPA may publish any comment received to its public docket. Do not submit to EPA's docket at *https://www.regulations.gov* any information you consider Confidential Business Information (CBI), Proprietary Business Information (PBI), or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include a discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). Please visit *https://www.epa.gov/dockets/commenting-epa-dockets* for additional submission methods; the full EPA public comment policy; information about CBI, PBI, or multimedia submissions; and general guidance on making effective comments.

II. Information About the Documents

Two sections of the Clean Air Act (CAA or the Act) govern the establishment and revision of the NAAQS. Section 108 directs the Administrator to identify and list certain air pollutants and then issue ''air quality criteria'' for those pollutants. The air quality criteria are to ''accurately reflect the latest scientific knowledge useful in indicating the kind and extent of all identifiable effects on public health or welfare which may be expected from the presence of such pollutant in the ambient air . . .'' (CAA section 108(a)(2)). Under section 109 of the Act, the EPA is then to establish primary (health-based) and secondary (welfare-based) NAAQS for each pollutant for which the EPA has issued air quality criteria. Section 109(d)(1) of the Act requires periodic review and, if appropriate, revision of existing air quality criteria. Revised air quality criteria are to reflect advances in scientific knowledge on the effects of the pollutant on public health and welfare. Under the same provision, the EPA is also to periodically review and, if appropriate, revise the NAAQS based on the revised air quality criteria.

The Act additionally requires the appointment of an independent scientific review committee that is to periodically review the existing air quality criteria and NAAQS and to recommend any new standards and revisions of existing criteria and standards as may be appropriate (CAA section 109(d)(2)(A)–(B)). Since the early 1980s, the Clean Air Scientific Advisory Committee (CASAC) has fulfilled the requirement for an independent scientific review committee.

Presently, the EPA is reviewing the health-based air quality criteria and primary NAAQS for oxides of nitrogen. The EPA's call for information for this review was issued on December 9, 2022 (87 FR 75625), and requested the public's assistance in identifying relevant scientific information for the review that has become available since the cutoff date for the 2016 ISA (*i.e.,* March 2014).[1] The documents announced in this notice have been developed as part of the integrated review plan (IRP) which is developed in the planning phase for the review. The documents have been prepared jointly by the EPA's Center for Public Health and Environmental Assessment within the Office of Research and Development and the Office of Air Quality Planning and Standards within the Office of Air and Radiation. These documents will be available on the EPA's website: *https://www.epa.gov/naaqs/nitrogen-dioxide-no2-primary-air-quality-standards,* accessible under ''Planning Documents'' from the current review.

The IRP for the current review of the primary NAAQS for oxides of nitrogen will be comprised of three volumes. Volumes 1 and 2 are the subject of this notice. Volume 1 provides background information on the air quality criteria and standards for oxides of nitrogen and may serve as a reference by the public and the CASAC in their consideration of the subsequent two volumes. Volume 2 addresses the general approach for the review and planning for the integrated science assessment (ISA). Comments are solicited from the public on Volume 2, which will also be the subject of a consultation with the CASAC, to be announced in a separate **Federal Register** notice. This volume identifies policy-relevant issues in the review and describes key considerations in the EPA's development of the ISA. Volume 3, which is not yet completed, is the planning document for quantitative analyses to be considered in the policy assessment (PA), including exposure and risk analyses, as warranted. In order that consideration of the availability of new evidence in the review can inform these plans, the development and public availability of Volume 3 will generally coincide with that of the draft ISA, and it will be the subject of a consultation with the CASAC at that time.

[1] Information assessed in the ISA for the last review generally included studies published prior to March 2014, with some exceptions.

As described above, comments on Volume 2 of the IRP should be submitted to the docket by April 17, 2024. A separate **Federal Register** notice will provide details about the CASAC consultation meeting and the process for participation in the CASAC consultation on Volume 2. The EPA will consider the consultation comments from the CASAC and public comments on the IRP, Volume 2, in preparation of the ISA for Oxides of Nitrogen—Health Criteria. Volume 1 of the IRP, also being made available, provides background or contextual and historical material for this NAAQS review. These documents do not represent and should not be construed to represent any final EPA policy, viewpoint, or determination.

Erika N. Sasser,

Director, Health and Environmental Impacts Division.

[FR Doc. 2024–05507 Filed 3–15–24; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2008–0707; FRL 11636–01–OAR]

Proposed Information Collection Request; Comment Request; Data Reporting Requirements for State and Local Vehicle Emission Inspection and Maintenance (I/M) Programs

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) is planning to submit an information collection request (ICR), ''Data Reporting Requirements for State and Local Vehicle Emission Inspection and Maintenance (I/M) Programs'' (EPA ICR No.1613.08, OMB Control No. 2060–0252) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. Before doing so, EPA is soliciting public comments on specific aspects of the proposed information collection as described below. This is a proposed extension of the ICR, which is currently approved through October 31, 2024. 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.

DATES: Comments must be submitted on or before May 17, 2024.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–OAR–2008–0707 online using *https://www.regulations.gov* (our preferred method) or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460. EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Joe Winkelmann, Office of Transportation and Air Quality, U.S. Environmental Protection Agency, 2000 Traverwood, Ann Arbor, Michigan 48105; telephone number: 734–214–4255; email address: *winkelmann.joseph@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *https://www.epa.gov/dockets.*

Pursuant to section 3506(c)(2)(A) of the Paperwork Reduction Act (PRA), EPA is soliciting comments and information to enable it to: (i) evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (ii) evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (iii) enhance the quality, utility, and clarity of the information to be collected; and (iv) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval. At that time, EPA will issue another **Federal Register** notice to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB.

Abstract: Clean Air Act section 182 and EPA's regulations (40 CFR part 51, subpart S) establish the requirements for state and local inspection and maintenance (I/M) programs that are included in state implementation plans (SIPs). To provide general oversight and support to these programs, EPA requires that state agencies with Basic and Enhanced I/M programs collect two varieties of reports for submission to the Agency:

- An annual report providing general program operating data and summary statistics, addressing the program's current design and coverage, a summary of testing data, enforcement program efforts, quality assurance and quality control efforts, and other miscellaneous information allowing for an assessment of the program's relative effectiveness; and
- A biennial report on any changes to the program over the two-year period and the impact of such changes, including any deficiencies discovered and corrections made or planned.

General program effectiveness is determined by the degree to which a program misses, meets, or exceeds the emission reductions committed to in the state's approved SIP, which, in turn, must meet or exceed the minimum emission reductions expected from the relevant performance standard, as promulgated under 40 CFR part 51, subpart S, in response to requirements established in section 182 of the Clean Air Act. This information is used by EPA to determine a program's progress toward meeting requirements under 40 CFR part 51, subpart S, and to provide background information in support of program evaluations. Additional information regarding the current renewal of this ICR as well as previous renewals can be found in Docket ID No. EPA–HQ–OAR–2008–0707.

The following statistics and responses apply to the ICR proposed for renewal.

Form Numbers: None.

Respondents/affected entities: State I/M program managers.

Respondent's obligation to respond: Mandatory (40 CFR 51.366).

Estimated number of respondents: 26 (total).

Frequency of response: Annual and biennial.

Total estimated burden: 2,236 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $165,776 (per year), includes $0 annualized capital or operation and maintenance costs.

Changes in Estimates: There is no change in the total estimated respondent

burden compared with the ICR currently approved by OMB.

Karl Simon,

Director, Transportation and Climate Division, Office of Transportation and Air Quality.

[FR Doc. 2024–05677 Filed 3–15–24; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–11278–01–R3]

Notice of Tentative Approval and Opportunity for Public Comment and Public Hearing for Public Water System Supervision Program Revision for Delaware

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of tentative approval and solicitation of requests for public hearing.

SUMMARY: Notice is hereby given that the State of Delaware is revising its approved Public Water System Supervision Program. Delaware has adopted drinking water regulations for the Stage 1 Disinfectants and Disinfection Byproduct Rule. The U.S. Environmental Protection Agency (EPA) has determined that Delaware's Stage 1 Disinfectants and Disinfection Byproduct Rule meets all minimum Federal requirements, and that it is no less stringent than the corresponding Federal regulation. Therefore, EPA has tentatively decided to approve the State program revisions.

DATES: Comments or a request for a public hearing must be submitted by April 17, 2024. This determination shall become final and effective on April 17, 2024 if no timely and appropriate request for a hearing is received, and the Regional Administrator does not elect to hold a hearing on his own motion, and if no comments are received which cause EPA to modify its tentative approval.

ADDRESSES: Comments or a request for a public hearing must be submitted to the U.S. Environmental Protection Agency, Region 3, Drinking Water Section (3WD21), 4 Penn Center, 1600 John F. Kennedy Blvd., Philadelphia, PA 19103–2852 or via email to Angela Cappetti at the email address below. All documents relating to this determination are available for inspection between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, at the following offices:

- Drinking Water Section, (3WD21), U.S. Environmental Protection Agency Region 3, 4 Penn Center, 1600 John F. Kennedy Blvd., Philadelphia, PA 19103–2852
- Office of Drinking Water, Delaware Department of Health and Social Services, Division of Public Health, 43 South DuPont Hwy., Dover, DE 1990.

FOR FURTHER INFORMATION CONTACT: Angela Cappetti, Drinking Water Section, Water Division, EPA Region 3 at the address above; Telephone Number: 215–814–2348; Email Address: *cappetti.angela@epa.gov;* or Anthony Meadows, Drinking Water Section, Water Division, EPA Region 3 at the address below; Telephone Number: 215–814–5442; email address: *meadows.anthony@epa.gov.*

SUPPLEMENTARY INFORMATION: All interested parties are invited to submit written comments, via US mail or email on this determination and may request a hearing. All comments will be considered, and if necessary, EPA will issue a response. Frivolous or insubstantial requests for a hearing will be denied by the Regional Administrator. If a substantial request for a public hearing is made by April 17, 2024, a public hearing will be held. A request for public hearing shall include the following: (1) the name, address, and telephone number of the individual, organization, or other entity requesting a hearing; (2) a brief statement of the requesting person's interest in the Regional Administrator's determination and of information that the requesting person intends to submit at such hearing; and (3) the signature of the individual making the request; or, if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

Adam Ortiz,

Regional Administrator, EPA Region 3.

[FR Doc. 2024–05626 Filed 3–15–24; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Commission hereby gives notice of filing of the following agreements under the Shipping Act of 1984. Interested parties may submit comments, relevant information, or documents regarding the agreements to the Secretary by email at *Secretary@fmc.gov,* or by mail, Federal Maritime Commission, 800 North Capitol Street, Washington, DC 20573. Comments will be most helpful to the Commission if received within 12 days of the date this notice appears in the **Federal Register**, and the Commission requests that comments be submitted within 7 days on agreements that request expedited review. Copies of agreements are available through the Commission's website (*www.fmc.gov*) or by contacting the Office of Agreements at (202) 523–5793 or *tradeanalysis@fmc.gov.*

Agreement No.: 201403–001.

Agreement Name: SSPL/NPDL Slot Charter Agreement.

Parties: Neptune Pacific Line, Inc.; Swire Shipping Pte. Ltd.

Filing Party: Conte Cicala; Withers Bergman LLP.

Synopsis: Amendment to slot charter agreement to change certain operational details as reflected in the amendment. The parties have requested expedited review.

Proposed Effective Date: 04/25/2024.

Location: https://www2.fmc.gov/FMC.Agreements.Web/Public/AgreementHistory/79503.

Dated: March 13, 2024.

Carl Savoy,

Federal Register Alternate Liaison Officer.

[FR Doc. 2024–05685 Filed 3–15–24; 8:45 am]

BILLING CODE 6730–02–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (Act) (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the applications are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at *https://www.federalreserve.gov/foia/request.htm.* Interested persons may express their views in writing on the standards enumerated in paragraph 7 of the Act.

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th

Street and Constitution Avenue NW, Washington, DC 20551–0001, not later than April 2, 2024.

A. Federal Reserve Bank of St. Louis (Holly A. Rieser, Senior Manager) P.O. Box 442, St. Louis, Missouri 63166–2034. Comments can also be sent electronically to *Comments.applications@stls.frb.org*:

1. *Zach John Scott McClendon; the Zach John Scott McClendon Irrevocable Trust, Zach John Scott McClendon as trustee; Robin Ann McClendon; the Robin Ann McClendon Irrevocable Trust, Robin Ann McClendon as trustee; and the Zach McClendon, Jr. Trust, Zach McClendon, Jr. as trustee, all of Monticello, Arkansas;* to establish a family control group and to retain voting shares of First Union Financial Corporation, and thereby indirectly retain voting shares of Union Bank & Trust Company, both of Monticello, Arkansas.

B. Federal Reserve Bank of Atlanta (Erien O. Terry, Assistant Vice President) 1000 Peachtree Street, NE, Atlanta, Georgia 30309. Comments can also be sent electronically to *Applications.Comments@atl.frb.org:*

1. *John Gregory Mitchell Batchelor, Russellville, Alabama, and John Bradley Batchelor Reeves, Tuscumbia, Alabama;* to become members of the Batchelor Family Control Group, a group acting in concert, to retain voting shares of CBS Banc-Corp., and thereby indirectly retain voting shares of CB&S Bank, Inc., both of Russellville, Alabama.

Board of Governors of the Federal Reserve System.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2024–05714 Filed 3–15–24; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at *https://www.federalreserve.gov/foia/request.htm.* Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)).

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551–0001, not later than April 17, 2024.

A. Federal Reserve Bank of Dallas (Karen Smith, Director, Mergers & Acquisitions) 2200 North Pearl Street, Dallas, Texas 75201–2272. Comments can also be sent electronically to *Comments.applications@dal.frb.org:*

1. *A.N.B. Holding Company, Ltd., Terrell, Texas;* to acquire additional voting shares, up to 37 percent, of The ANB Corporation, and thereby indirectly acquire voting shares of The American National Bank of Texas, both of Terrell, Texas.

Board of Governors of the Federal Reserve System.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2024–05715 Filed 3–15–24; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Solicitation for Nominations for Appointment to the Board of Scientific Counselors, National Institute for Occupational Safety and Health

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: In accordance with the Federal Advisory Committee Act, the Centers for Disease Control and Prevention (CDC), within the Department of Health and Human Services (HHS), is seeking nominations for membership on the Board of Scientific Counselors, National Institute for Occupational Safety and Health (BSC, NIOSH). The BSC, NIOSH consists of 15 experts in fields associated with occupational safety and health.

DATES: Nominations for membership on the BSC, NIOSH must be received no later than April 17, 2024. Packages received after this time will not be considered for the current membership cycle.

ADDRESSES: All nominations should be mailed to NIOSH Docket 278, c/o Ms. Pauline Benjamin, Committee Management Specialist, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention, 1600 Clifton Road NE, Mailstop V24–4, Atlanta, Georgia 30329–4027, or emailed to *nioshdocket@cdc.gov.*

FOR FURTHER INFORMATION CONTACT: Maria Strickland, M.P.H., Designated Federal Officer, Board of Scientific Counselors, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention, Constitution Center, 400 7th Street SW, Suite 5W, Washington, District of Columbia 20024. Telephone: (202) 245–0649; Email: *MStrickland2@cdc.gov.*

SUPPLEMENTARY INFORMATION: Nominations are sought for individuals who have the expertise and qualifications necessary to contribute to the accomplishment of the objectives of the Board of Scientific Counselors, National Institute for Occupational Safety and Health (BSC, NIOSH). Nominees will be selected based on expertise in pertinent disciplines involved in occupational safety and health, such as occupational medicine, occupational nursing, industrial hygiene, occupational safety, engineering, toxicology, chemistry, safety and health education, ergonomics, epidemiology, biostatistics, psychology, wellness, research translation, and evaluation. Federal employees will not be considered for membership. Members may be invited to serve for up to four-year terms. Selection of members is based on candidates' qualifications to contribute to the accomplishment of BSC, NIOSH objectives (*https://www.cdc.gov/niosh/BSC/default.html).*

Department of Health and Human Services (HHS) policy stipulates that committee membership be balanced in terms of points of view represented and the committee's function. Appointments shall be made without discrimination on the basis of age, race, ethnicity, gender, sexual orientation, gender identity, HIV status, disability, and cultural, religious, or socioeconomic status. Nominees must be U.S. citizens and cannot be full-time employees of

the U.S. Government. Current participation on Federal workgroups or prior experience serving on a Federal advisory committee does not disqualify a candidate; however, HHS policy is to avoid excessive individual service on advisory committees and multiple committee memberships. Committee members are Special Government Employees, requiring the filing of financial disclosure reports at the beginning of and annually during their terms. The Centers for Disease Control and Prevention (CDC) reviews potential candidates for BSC, NIOSH membership each year and provides a slate of nominees for consideration to the Secretary of HHS for final selection. HHS notifies selected candidates of their appointment near the start of the term in January 2025, or as soon as the HHS selection process is completed. Note that the need for different expertise varies from year to year and a candidate who is not selected in one year may be reconsidered in a subsequent year.

Candidates should submit the following items:

- Current curriculum vitae, including complete contact information (telephone numbers, mailing address, email address)
- Cover letter, including a description of the candidate's qualifications and why the candidate would be a good fit for the BSC, NIOSH
- At least one letter of recommendation from person(s) not employed by HHS. Candidates may submit letter(s) from current HHS employees if they wish, but at least one letter must be submitted by a person not employed by an HHS agency (*e.g.,* CDC, National Institutes of Health, Food and Drug Administration).

Nominations may be submitted by the candidate or by the person/organization recommending the candidate.

The Director, Office of Strategic Business Initiatives, Office of the Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Kalwant Smagh,

Director, Office of Strategic Business Initiatives, Office of the Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2024–05694 Filed 3–15–24; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10398 #81]

Medicaid and Children's Health Insurance Program (CHIP) Generic Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: On May 28, 2010, the Office of Management and Budget (OMB) issued Paperwork Reduction Act (PRA) guidance related to the ''generic'' clearance process. Generally, this is an expedited process by which agencies may obtain OMB's approval of collection of information requests that are ''usually voluntary, low-burden, and uncontroversial collections,'' do not raise any substantive or policy issues, and do not require policy or methodological review. The process requires the submission of an overarching plan that defines the scope of the individual collections that would fall under its umbrella. On October 23, 2011, OMB approved our initial request to use the generic clearance process under control number 0938–1148 (CMS–10398). It was last approved on April 26, 2021, via the standard PRA process which included the publication of 60- and 30-day **Federal Register** notices. The scope of the April 2021 umbrella accounts for Medicaid and CHIP State plan amendments, waivers, demonstrations, and reporting. This **Federal Register** notice seeks public comment on one or more of our collection of information requests that we believe are generic and fall within the scope of the umbrella. Interested persons are invited to submit comments regarding our burden estimates 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 must be received by April 1, 2024.

ADDRESSES: When commenting, please reference the applicable form number (CMS–10398 #81) and the OMB control number (0938–1148). To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to *http://www.regulations.gov.* Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: CMS–10398 #81/OMB control number: 0938–1148, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, please access the CMS PRA website by copying and pasting the following web address into your web browser: *https://www.cms.gov/medicare/regulations-guidance/legislation/paperwork-reduction-act-1995/pra-listing.*

FOR FURTHER INFORMATION CONTACT: William N. Parham at (410) 786–4669.

SUPPLEMENTARY INFORMATION: Following is a summary of the use and burden associated with the subject information collection(s). More detailed information can be found in the collection's supporting statement and associated materials (see **ADDRESSES**).

Generic Information Collection

1. *Title of Information Collection:* Improving Quality of Care and Outcomes Data for Pregnant Medicaid Beneficiaries and Newborn Infants through Linkage and Evaluation of Vital Records (VR) Birth Certificates (BC), Death Certificates (DC) and T–MSIS Analytic Files (TAF); *Type of Information Collection Request:* New collection of information request; *Use:* This project aims to expand and strengthen data capacity by linking VR birth certificate data with TAF data to provide state, federal, and academic researchers with accessible, linked, longitudinal data on pregnant people and their newborn infants. CMCS is requesting record-level VR birth certificate data with identifiers from state VR agencies to link those data to Medicaid claims. To accomplish these linkages, record-level VR birth certificate data with identifiers will be

ingested and stored in a secure CMS data environment and used only for the purpose of linking VR data to Medicaid claims; VR identifiers will not be used for any other purpose. If VR birth certificate and TAF linkages are successful, CMCS will also request state VR mortality data from a selection of states to link maternal death records to TAF data. Using current state linkages of live births with death certificate data to identify maternal and infant deaths will support further research into better understanding and reducing maternal and infant morbidity and mortality. *Form Number:* CMS–10398 #81 (OMB control number: 0938–1148); *Frequency:* One time; *Affected Public:* State, Local, or Tribal Governments; *Number of Respondents:* 52; *Total Annual Responses:* 52; *Total Annual Hours: 104.* (For policy questions regarding this collection contact: Ali Fokar at (410) 786–0020.)

William N. Parham, III,

Director, Division of Information Collections and Regulatory Impacts, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2024–05722 Filed 3–15–24; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–8003]

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 April 17, 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 collection; *Title of Information Collection:* 1915(c) Home and Community-Based Services (HCBS) Waiver Application; *Use:* Section 1915(c) of the Social Security Act authorizes the Secretary of Health and Human Services to waive certain Medicaid statutory requirements so that a state may offer home and community based services to state-specified target group(s) of Medicaid beneficiaries who need a level of institutional care that is provided under the Medicaid state plan. The application is used by states to submit and revise their waiver requests. We use the application to review and adjudicate individual waiver actions. The Waiver Application and the application's Instructions, Technical Guide, and Review Criteria document have been revised. *Form Number:* CMS–8003 (OMB control number 0938–0449); *Frequency:* Yearly; *Affected Public:* State, Local, or Tribal Governments; *Number of Respondents:* 34; *Total Annual Responses:* 64; *Total Annual Hours:* 5,332. (For policy questions regarding this collection contact Ryan Shannahan at 410–786–0295.)

William N. Parham, III,

Director, Division of Information Collections and Regulatory Impacts, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2024–05622 Filed 3–15–24; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10340 and CMS–10396]

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 April 17, 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 collection; *Title of Information Collection:* Collection of Encounter Data from MA Organizations, Section 1876 Cost HMOs/CMPs, MMPs, and PACE Organizations; *Use:* Section 1853(a)(3)(B) of the Act directs CMS to require MA organizations and eligible organizations with risk-sharing contracts under 1876 to ''submit data regarding inpatient hospital services . . . and data regarding other services and other information as the Secretary deems necessary'' in order to implement a methodology for ''risk adjusting'' payments made to MA organizations and other entities. Risk adjustments to enrollee monthly payments are made in order to take into account ''variations in per capita costs based on [the] health status'' of the Medicare beneficiaries enrolled in an MA plan.

CMS uses encounter data to develop individual risk scores for risk adjusted payment to MA organizations, PACE organizations, and MMPs. Starting with Payment Year (PY) 2016, CMS began to blend risk scores calculated with Risk Adjustment Processing Data and Medicare Fee-For-Service (FFS) data with risk scores calculated with encounter data and FFS data, for risk scores calculated under both the CMS–HCC and the RxHCC models. In PY 2022, we will move to calculating risk scores under both the CMS–HCC and the RxHCC models using 100 percent of the risk score calculated using encounter data and FFS data.

All organizations required to submit encounter data use an electronic connection between the organization and CMS to submit encounter data and to receive information in return. CMS collects the data from MA organizations, 1876 Cost Plans, MMPs and PACE organizations in the X12N 837 5010 format for professional, DME, and institutional, and dental services or items provided to MA enrollees. *Form Number:* CMS–10340 (OMB control number: 0938–1152); *Frequency:* Daily; *Affected Public:* Private Sector, Business or other for-profits and Not-for-profits institutions; *Number of Respondents:*284; *Total Annual Responses:* 1,467,645,179; *Total Annual Hours:* 48,936,279. (For policy questions regarding this collection contact Raymond Mierwald at 410 446–5449).

2. *Type of Information Collection Request:* Reinstatement without change of previously approved collection; *Title of Information Collection:* Medication Therapy Management Program Improvements—Standardized Format; *Use:* Section 1860D–4(c)(2)(C)(i) of the Act requires plan sponsors to offer MTM services that include an annual CMR with a written summary and action plan provided in a standardized format developed in consultation with stakeholders. This requirement is codified at § 423.153(d)(1)(vii)(D), which requires that the standardized action plan and summary comply with requirements specified by CMS for the standardized format. Components of the CMR summary in Standardized Format should include a cover letter, personalized medication list, and action plan if applicable.

Users include members in a Part D sponsors' plan who are eligible are enrolled in the sponsors' MTM program and offered a CMR. The CMR is a consultation between the MTM provider (such as a pharmacist) with the beneficiary to review their medications. The MTM provider is either an employee/contractor of the plan itself or of a downstream entity contracted by the plan to provide MTM services. After a CMR is performed, the sponsor creates and sends a summary of the CMR to the beneficiary that includes a medication action plan and personal medication list using the Standardized Format.

Information collected by Part D MTM programs as required by the Standardized Format for the CMR summary is used by beneficiaries or their authorized representatives, caregivers, and their healthcare providers to improve medication use and achieve better healthcare outcomes. *Form Number:* CMS–10396 (OMB control number: 0938–1154); *Frequency:* Yearly; *Affected Public:* Private Sector and Business or other for-profits; *Number of Respondents:* 849; *Total Annual Responses:* 2,382,774; *Total Annual Hours:* 1,588,595. (For policy questions regarding this collection contact Victoria Dang at 410–786–3991 or *Victoria.dang@cms.hhs.gov.*)

William N. Parham, III,

Director, Division of Information Collections and Regulatory Impacts, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2024–05712 Filed 3–15–24; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifiers: CMS–10332]

Agency Information Collection Activities: Proposed Collection; 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 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates 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 must be received by May 17, 2024.

ADDRESSES: When commenting, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to *http://www.regulations.gov.* Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number: ____, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, please access the CMS PRA website by copying and pasting the following web address into your web browser: *https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.*

FOR FURTHER INFORMATION CONTACT: William N. Parham at (410) 786–4669.

SUPPLEMENTARY INFORMATION:

Contents

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see **ADDRESSES**).

CMS–10332 Disclosure Requirement for the In-Office Ancillary Services Exception

Under the 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 requires federal agencies to publish a 60-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.

Information Collection

1. *Type of Information Collection Request:* Extension without change of a currently approved collection; *Title of Information Collection:* Disclosure Requirement for the In-Office Ancillary Services Exception; *Use:* Section 6003 of the ACA established a disclosure requirement for the in-office ancillary services exception to the prohibition of physician self-referral for certain imaging services. This section of the ACA amended section 1877(b)(2) of the Social Security Act by adding a requirement that the referring physician informs the patient, at the time of the referral and in writing, that the patient may receive the imaging service from another supplier. The implementing regulations are at 42 CFR 411.355(b)(7).

Physicians who provide certain imaging services (MRI, CT, and PET) under the in-office ancillary services exception to the physician self-referral prohibition are required to provide the disclosure notice as well as the list of other imaging suppliers to the patient. The patient will then be able to use the disclosure notice and list of suppliers in making an informed decision about his or her course of care for the imaging service.

CMS would use the collected information for enforcement purposes. Specifically, if we were investigating the referrals of a physician providing advanced imaging services under the in-office ancillary services exception, we would review the written disclosure in order to determine if it satisfied the requirement. *Form Number:* CMS–10332 (OMB control number 0938–1133); *Frequency:* Occasionally; *Affected Public:* Private Sector, Business or other for-profits and Not-for-profits institutions; *Number of Respondents:* 974,557; *Total Annual Responses:* 974,557; *Total Annual Hours:* 18,107. For policy questions regarding this collection contact Sabrina Teferi at 404–562–7251 or *Sabrina.Teferi@cms.hhs.gov.*

William N. Parham, III,

Director, Division of Information Collections and Regulatory Impacts, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2024–05710 Filed 3–15–24; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Annual Report on Children in Foster Homes and Children in Families Receiving Payments in Excess of the Poverty Income Level From a State Program Funded Under Part A of Title IV of the Social Security Act (Office of Management and Budget #: 0970–0004)

AGENCY: Office of Family Assistance, Administration for Children and Families, U.S. Department of Health and Human Services.

ACTION: Request for public comments.

SUMMARY: The Office of Family Assistance (OFA), Administration for Children and Families (ACF) is requesting a three-year extension of the form ACF–4125: Annual Report on Children in Foster Homes and Children in Families Receiving Payment in Excess of the Poverty Income Level from a State Program Funded Under Part A of Title IV of the Social Security Act (Office of Management and Budget #: 0970–0004, expiration 6/30/2024). There are no changes requested to the form.

DATES: *Comments due within 60 days of publication.* In compliance with the requirements of the Paperwork Reduction Act of 1995, ACF is soliciting public comment on the specific aspects of the information collection described above.

ADDRESSES: You can obtain copies of the proposed collection of information and submit comments by emailing *infocollection@acf.hhs.gov.* Identify all requests by the title of the information collection.

SUPPLEMENTARY INFORMATION:

Description: The Elementary and Secondary Education Act of 1965

(ESEA), section 1124 of title I, as amended by Public Law 114–95, requires the Secretary of Health and Human Services to determine the number of children aged 5 to 17, inclusive, that (1) are being supported in foster homes with public funds; or (2) are from families receiving assistance payments in excess of the current poverty income level for a family of four. The information gathered is to be passed on to the Secretary of Education for purposes of allocating grants authorized under this law. The statute requires that the formula to allocate these grants and distribute funds be based, in part, on October caseload data on the number of children in foster care or in families receiving payments from state programs funded under Title IV-a of the Social Security Act [Temporary Assistance for Needy Families (TANF)]. The purpose of this annual survey is to provide annually updated data so that funds may be allocated in accordance with the ESEA.

Respondents: State agencies (including the District of Columbia and Puerto Rico) administering child welfare and public assistance programs.

ANNUAL BURDEN ESTIMATES

Instrument	Total number of respondents	Annual number of responses per respondent	Average burden hours per response	Annual burden hours
Annual Report on Children in Foster Homes and Children Receiving Payments	52	1	264.35	13,746.20

Comments: The Department specifically requests comments on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Authority: 20 U.S.C. 6333; 42 U.S.C. 613.

Mary C. Jones,

ACF/OPRE Certifying Officer.

[FR Doc. 2024–05713 Filed 3–15–24; 8:45 am]

BILLING CODE 4184–36–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Request for Information: Office of Head Start Tribal Programs

AGENCY: Administration for Children and Families, U.S. Department of Health and Human Services.

ACTION: Request for public comment.

SUMMARY: Prioritizing and directing resources to American Indian and Alaskan Native (AI/AN) programs to implement, expand, and/or enhance their Head Start services to tribal children and families is critical for meeting federal trust responsibility; preserving, and promoting Native language, culture, and traditions; and addressing the impact of historical trauma on Native Americans. As part of the Administration for Children and Families' (ACF) commitment to partnering with tribal nations to provide high-quality Head Start programming, in addition to regular tribal consultations, the Office of Head Start (OHS) invites public comment on the rules, regulations, and available training and technical assistance (TTA) supports impacting the AI/AN Head Start community. This Request for Information (RFI) seeks input on topics including eligibility; program options; quality environments; child health and safety; tribal language preservation, maintenance, revitalization, and restoration; family and community engagement; workforce; training and technical assistance; partnerships with state systems; facilities; fiscal operations; early childhood systems; and others, to improve the quality of Head Start services in areas of great need and affirm the federal government's commitment to protect Native communities.

DATES: To be considered, public comments must be received electronically no later than September 16, 2024.

ADDRESSES: Submit questions, comments, and supplementary documents to *AIANHeadStart@acf.hhs.gov* with ''OHS Tribal RFI'' in the subject line. All submissions received must include the **Federal Register** document number, 2024–05573, for ''Request for Information: OHS Tribal Nations''. All comments received are a part of the public record and will be posted for public viewing on *https://www.regulations.gov,*without change. That means all personal identifying information (such as name or address) will be publicly accessible. Please do not submit confidential information or otherwise sensitive or protected information. We accept anonymous comments. If you wish to remain anonymous, enter ''N/A'' in the required fields.

SUPPLEMENTARY INFORMATION:

Background

Head Start is a leader in high-quality early childhood education, supporting children from low-income families in reaching kindergarten healthy and ready to thrive in school and life. The program was founded on research showing that health and well-being are pre-requisites to maximum learning and improved short- and long-term outcomes.

The Head Start program was most recently reauthorized in 2007 (Pub. L. 110–134 ''Improving Head Start for School Readiness Act of 2007,'' also known as, ''the Head Start Act''). The Head Start Program Performance Standards (HSPPS), the regulations governing Head Start programs, were originally published in 1975 and revised in 2016 to incorporate findings from scientific research and reflect best practices and lessons learned from program innovation. Most recently, OHS released a Notice of Proposed Rulemaking (NPRM) titled, Supporting the Head Start Workforce and Consistent Quality Programming, which proposes new requirements to the HSPPS to support and stabilize the Head Start workforce and enhances existing requirements for consistent quality of services across programs. Currently, a final rule on the NPRM is forthcoming. Please note, comments from tribal stakeholders previously received on the NPRM are distinct from those we are soliciting on this RFI.

Through this RFI, OHS is seeking comments that identify opportunities to improve quality and program operations as aligned with the Head Start Act.

The Head Start program promotes school readiness by providing preschool and early education programs alongside comprehensive health, education, nutrition, socialization, and other developmental services for children from birth to age 5, pregnant women, and their families. Region XI programs are funded by OHS to federally recognized AI/AN tribes or consortia of tribes. In fiscal year 2022, a total of 154 AI/AN grant recipients were funded by OHS. These AI/AN grant recipients were funded to serve 21,871 enrollees, of which 16,627 (76 percent) were preschool-age children (ages 3 to 5 years) served in Head Start programs and 5,244 (24 percent) were infants, toddlers, and pregnant women served in Early Head Start programs. AI/AN funded enrollment accounted for 2.6 percent of the total funded enrollment in Head Start and Early Head Start.

AI/AN Head Start programs are unique because they help fulfill the federal government's trust and responsibility to protect the interests of tribal nations and communities. The Head Start Act preserves and reinforces the federal government's commitment to work with tribal nations on a government-to-government basis. Specifically, OHS convenes tribal consultation sessions as required by section 640(l)(4) of the Head Start Act and in conformity with the Department of Health and Human Services (HHS) Tribal Consultation Policy.

With this RFI, OHS seeks public comment on whether existing OHS requirements, regulations, and TTA supports for AI/AN Head Start programs, (1) are appropriate for tribal nations to implement in a manner that best meets the needs of the children, families, and programs in their communities, and (2) properly recognize the principles of strong government-to-government relationships and tribal sovereignty. OHS seeks feedback on whether changes to procedures, processes, and TTA materials are needed to improve implementation of AI/AN Head Start programs.

We recognize that any changes made to tribal regulations or other requirements must be made with input and consultation from tribal nations and organizations that receive OHS funding. This RFI is being issued with ACF's Principles for Working with Federally Recognized Tribes in mind, including the promotion and sustainability of strong government-to-government relationships, tribal sovereignty, and transparency in ACF's actions as public servants.

Invitation to Comment: HHS invites comments regarding this notice. You do not need to address every question and should focus on those where you have relevant expertise or experience. In your response, please provide a brief description of yourself and your role or organization before addressing the questions. To ensure that your comments are clearly stated, please identify the questions you are responding to when submitting your response.

Collection of Information

In accordance with the implementing regulations of the Paperwork Reduction Act of 1995 (PRA), specifically 5 CFR 1320.3(h)(4), this general solicitation is exempt from the PRA. Facts or opinions submitted in response to general solicitations of comments from the public, published in the **Federal Register** or other publications, regardless of the form or format thereof, provided that no person is required to supply specific information pertaining to the commenter, other than that necessary for self-identification, as a condition of the agency's full consideration, are not generally considered information collections and therefore not subject to the PRA.

Respondents are encouraged to provide complete but concise responses. This RFI is issued solely for information and planning purposes; it does not constitute a Request for Proposal (RFP), applications, proposal abstracts, or quotations. This RFI does not commit the U.S. Government to contract for any supplies or services or make a grant award. Further, ACF is not seeking proposals through this RFI and will not accept unsolicited proposals. Responders are advised that the U.S. Government will not pay for any information or administrative costs incurred in response to this RFI; all costs associated with responding to this RFI will be solely at the interested party's expense. Not responding to this RFI does not preclude participation in any future procurement, if conducted. It is the responsibility of the potential responders to monitor this RFI announcement for additional information pertaining to this request. Please note that ACF will not respond to questions about the policy issues raised in this RFI. ACF may or may not choose to contact individual responders. Such communications would only serve to further clarify written responses. Contractor support personnel may be used to review RFI responses. Responses to this notice are not offers and cannot be accepted by the U.S. Government to form a binding contract or issue a grant. Information obtained as a result of this RFI may be used by the U.S. Government for program planning on a non-attribution basis. Respondents should not include any information that might be considered proprietary or confidential. This RFI should not be construed as a commitment or authorization to incur cost for which reimbursement would be required or sought. All submissions become U.S. Government property and will not be returned. ACF may publicly post the comments received, or a summary thereof.

What We Are Looking for in Public Comments

Through this RFI, OHS is particularly seeking input that provides specific changes to the AI/AN Head Start programs that improve program quality and program operations for tribal nations.

This RFI seeks to solicit suggestions and feedback from those directly impacted by the Head Start program requirements, including but not limited to, tribal leaders and elders, AI/AN Head Start service providers and staff, current federal and non-federal TTA providers, national organizations, researchers, philanthropy, families, and community members. This RFI is a federal record of comments provided by tribal communities and can be used in the future to inform changes in regulation, policy guidance, or delivery of TTA materials.

We ask respondents to address the questions listed below. You do not need to address every question and should focus on those where you have relevant expertise or experience. Commenters should identify the question to which they are responding by indicating the corresponding letter and/or number(s). We request commenters who identify barriers or policies to indicate the barrier or policy with as much detail as possible, as well as the types of program options (*e.g.,* center-based, family child care, home-based) that are impacted.

A. Eligibility

ACF understands and appreciates the unique challenges that tribal programs face when determining eligibility for families who are interested in the program. The current HSPPS (Section 1302.12) and the Head Start Act (Sec. 645. [42 U.S.C. 9840]) describe eligibility determination rules with specific flexibility given to Indian tribes. Programs can use a family's income (and the federal poverty guidelines), homeless or foster care status, or receipt

of certain public assistance (defined as Temporary Assistance for Needy Families (TANF), Supplemental Nutrition Assistance Program, or Supplemental Security Income) as indicators of eligibility.

In May 2023, OHS issued the Information Memorandum (IM), *American Indian and Alaskan Native (AI/AN) Head Start Eligibility Through Tribal TANF,* to support tribal sovereignty and expand public assistance eligibility to tribal families. Specifically, the IM clarifies to AI/AN Head Start programs that if families are eligible for benefits and services funded by tribal TANF, then they also meet categorical eligibility requirements for Head Start. While the guidance in this IM does not create new policy, OHS believes prior guidance issued on TANF eligibility has not explicitly addressed tribal TANF benefits and services in addition to cash assistance as a means for Head Start eligibility. The IM also explains that tribal governments have flexibility in establishing tribal TANF eligibility and because they administer AI/AN Head Start programs, they are uniquely positioned to leverage TANF as a means for categorical eligibility under public assistance.

One specific priority of OHS is to reduce barriers to enrollment of children and families who are experiencing homelessness, as defined by the McKinney-Vento Act. This is also prioritized in the Head Start Act (Sec. 640. [42 U.S.C. 9835]). Homelessness is defined by the McKinney-Vento Act as: individuals who lack a fixed, regular, and adequate nighttime residence; and includes:—

i. children and youths who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations; are living in emergency or transitional shelters; or are abandoned in hospitals;

ii. children and youths who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings (within the meaning of section 1103(a)(2)(C) of the McKinney-Vento Act);

iii. children and youths who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and

iv. migratory children (as such term is defined in section 1309 of the Elementary and Secondary Education Act of 1965) who qualify as homeless for the purposes of this subtitle because the children are living in circumstances described in clauses (i) through (iii).[1]

ACF understands that the term ''homeless'' can be challenging for many AI/AN Head Start programs to implement. Several programs have adopted alternative nomenclature to adapt to their cultural norms (*e.g.,* kinship care, Indigenous mobility), and ACF welcomes these efforts.

Tribal programs have additional flexibilities to fill more than 10 percent of their enrollment with participants who do not meet the eligibility criteria in Section 1302.12(c) of the HSPPS, provided that the program can demonstrate it has served all eligible individuals in the service area, serves at least 51 percent under one of the eligibility criteria, and that the program has the capacity to serve additional individuals. ACF has heard consistently from tribal leaders and program administrators that the current eligibility requirements in statute and regulation do not provide sufficient flexibility to tribes to determine who may receive Head Start services and that this lack of flexibility is counter to tribal sovereignty and cultural values.

Request for Information

What are your thoughts on eligibility requirements, regulations, and TTA supports for AI/AN Head Start programs as outlined above? See below for more specific prompts to target feedback on eligibility processes, public assistance, and enrolling children and families experiencing homelessness.

A.1 Eligibility Processes

OHS seeks input on how the eligibility requirements and processes work for tribal programs, and if there are any changes that could be made to better support the implementation of these regulations, acknowledging that most eligibility criteria are defined in statute. Specifically, OHS would like to understand how tribes verify eligibility and what culturally appropriate practices programs use to determine eligibility and if any improvements could be made to TTA around defining and verifying eligibility. Additionally, should there be a change in statute, OHS solicits suggestions and recommendations about how OHS can support implementation.

A.2 Public Assistance

We request input on the implementation of public assistance as a means for eligibility and if any additional changes would enable a more fair and equitable process for all tribal programs. Specifically, we request input on the guidance issued in the tribal TANF IM to understand if it has provided utility in addressing some of the challenges associated with eligibility limitations. Additionally, we request information on any other resources or information that would be helpful to ensure that AI/AN recipients can utilize this pathway to eligibility.

A.3 Enrolling Children and Families Experiencing Homelessness

OHS would like tribal Head Start programs to comment on how they are implementing and prioritizing enrollment of children and families who are experiencing homelessness, kinship care, or Indigenous mobility. OHS seeks insights into the challenges and barriers to enrolling children who are experiencing homelessness.

B. Program Options

Current OHS regulations provide flexibility to programs to design a program structure that works for the community they are serving whether that is through center-based, home-based, family child care, or an approved locally designed option (LDO). OHS is aware that unique cultural practices are often imbedded into AI/AN Head Start program design, making LDOs particularly useful for some tribal communities. Regardless of the program option, programs must deliver a range of comprehensive services and design a program calendar that aligns with community needs. Programs may convert slots from Head Start to Early Head Start through re-funding applications and change in scope applications, and AI/AN programs that operate both Head Start and Early Head Start may reallocate funding between the programs at their discretion and at any time during the grant period in order to address fluctuations in client populations. Programs that use this discretion must notify the regional office.

Request for Information

What are your thoughts on the program option requirements, regulations, and TTA supports for AI/AN Head Start programs as outlined above? See below for more specific prompts to target feedback on program options and waivers.

B.1 Program Options

OHS seeks input on how these program options are working in tribal communities. As such, OHS specifically requests comment on successful LDOs or program design choices that are being utilized to meet the needs of tribal children, families, and staff. OHS seeks

comment on how technical assistance around program design can be improved for tribal programs and opportunities to improve the process for approval of LDOs and change in scope applications.

B.2 Waivers

All Head Start programs are eligible to request certain waivers related to group size, ratios, and service duration. OHS would like input on the value of the currently available waivers as well as input on any other culturally inclusive practices related to program design that would help to meet tribal needs. OHS seeks comment on how the waiver submission and approval process can be improved for tribal programs.

C. Quality Environments

Section 1302.31 of the HSPPS discusses the teaching and learning environment. This section of the standards includes requirements for educators to implement well-organized learning environments that include indoor and outdoor experiences. While the regulations do not require a particular curriculum, Section 1302.32 of the HSPPS does require programs to implement developmentally appropriate, research-based early childhood curricula that are based on scientifically valid research and aligned with the Head Start Early Learning Outcomes Framework (ELOF). The ELOF is designed to allow early childhood programs to connect their community's traditional cultural skills, values, beliefs, language, and lifeways with the ELOF domains or state and tribal early learning guidelines. The HSPPS require that curricula have an organized developmental scope and sequence that include plans and materials for developmentally appropriate learning experiences. A program may choose to make significant adaptations to a curriculum to better meet the needs of a specific population, however the program must assess whether the adaptation adequately facilitates progress toward meeting school readiness goals. These specifications are also reflected in the Head Start Act, Sec. 642 [42 U.S.C. 9837]. OHS has heard from tribal leaders and program administrators that the requirements for a research-based curriculum inhibit them from implementing truly culturally grounded curricula, even with the allowances for significant adaptation.

Section 1302.21 of the HSPPS also specifies square footage requirements for center-based programs. Specifically, Section 1302.21(d)(2) requires that center-based programs have ''At least 35 square feet of usable indoor space per child available for the care and use of children (exclusive of bathrooms, halls, kitchen, staff rooms, and storage places) and at least 75 square feet of usable outdoor play space per child.''

Request for Information

What are your thoughts on the quality environment requirements, regulations, and TTA supports for AI/AN Head Start programs as outlined above? See below for more specific prompts to target feedback on the ELOF, curriculum, and indoor and outdoor spaces.

C.1 ELOF

OHS recognizes that integrating traditional tribal teachings and culture are critically important for tribal language maintenance, revitalization, and restoration, as well as for the impact they can have on healing generational trauma. OHS seeks input on whether the current ELOF is appropriate for AI/AN grant recipients and specific elements that are missing or not appropriate for tribes. OHS seeks input on how AI/AN Head Start programs implement the ELOF and how it fits, or does not fit, cultural practices and lifeways of tribal communities.

C.2 Curriculum

OHS seeks input on how the requirements around curricula adequately reflect Indigenous culture and language. While the HSPPS allow for some flexibility in designing a curriculum that is aligned with the ELOF, OHS seeks comment on any additional improvements that could be made and how our training materials can better support tribes to implement the flexibilities that exist and the options that programs have.

C.3 Indoor and Outdoor Space

OHS seeks input on the current regulations around indoor and outdoor space, square footage requirements, and whether these requirements have created cultural barriers or challenges for tribal communities and AI/AN programs. We are interested to know if there are ways that OHS can improve or enhance this standard and any policy guidance or technical assistance that would be beneficial for programs when designing their programs' spaces.

D. Child Health and Safety

As part of Head Start's comprehensive services, every Head Start and Early Head Start program provides services to promote health, behavioral health, and safety for children and families. To support healthy environments, section 1302.40(b)of the HSPPS requires each program to establish and maintain a Health Services Advisory Committee (HSAC), an advisory group usually composed of local health professionals who represent a wide variety of local health and social services agencies to support children's healthy development. The HSAC may include pediatricians, nurses, nurse practitioners, dentists, dental hygienist, nutritionists, and mental health professionals, and often includes Head Start parents and staff. OHS understands that tribal programs have challenges creating these HSACs as most of our tribal programs are in rural and remote areas and those local health providers who should represent a wide variety of local social services agencies are not available or easily accessible in their communities.

Request for Information

What are your thoughts on the child health and safety requirements, regulations, and TTA supports for AI/AN Head Start programs as outlined above? See below for more specific prompts to target feedback on child health and safety.

D. Child Health and Safety

OHS seeks input on barriers to developing and maintaining HSACs, if any, within AI/AN Head Start programs. In addition, we seek input on whether OHS coordinating with Indian Health Service (IHS) would be a helpful way to address some of the challenges with developing and maintaining HSACs. Lastly, OHS welcomes any additional feedback on how our training materials can better support tribes to maintain healthy and safe AI/AN Head Start programs.

E. Tribal Language Preservation, Maintenance, Revitalization, and Restoration

OHS values and respects Native language preservation, maintenance, revitalization, and restoration, and recognizes the impact of historical trauma and other community traumas, such as exposure to violence, grief, and loss. Traumatic events, such as forced relocation, genocide, and the abduction of youth to more than 350 government-funded boarding schools have caused lasting impacts on Native American communities.

OHS understands that tribal teaching methods for non-written language are different from written language and can be especially beneficial for young children who are not yet writing. As such, the role of elders in AI/AN programs is particularly important for tribal culture and language preservation and revitalization. Tribal early

childhood needs have only been exacerbated as Native communities have been particularly hit hard by the COVID–19 pandemic, causing a significant loss of elders that is profoundly painful given their wisdom and status as cultural knowledge and language keepers.

In Section 1302.31 of the HSPPS, programs are required to recognize bilingualism and biliteracy as strengths and implement research-based teaching practices that support dual language learners' development. For dual language learners, regulations require that programs must support the language spoken at home and English language acquisition for infants, toddlers, and preschoolers. Regulations also require programs to support children's native language even when staff do not speak the home language of all children.

Section 1302.36 of the HSPPS outlines the tribal language preservation and revitalization section. This section allows programs that serve AI/AN children to integrate efforts to preserve, revitalize, restore, or maintain the tribal language for those children. Such language preservation efforts may include full immersion in the tribal language for the majority of hours in the classroom. Per this section, exposure to English in the Head Start program is not required if the child's home language is English and if the program wishes to fully utilize the Native language in the program.

Request for Information

What are your thoughts on tribal language preservation, maintenance, revitalization, and restoration requirements, regulations, and TTA supports for AI/AN Head Start programs as outlined above? See below for more specific prompts to target feedback on language preservation, maintenance, revitalization, and restoration.

E. Language Preservation, Maintenance, Revitalization, and Restoration

OHS seeks input on how HSPSS can best support tribes in integrating cultural and native languages, as well as any standards that are impediments to integrating Native culture and language. OHS is specifically interested in how the office can better support programs implementing language preservation and revitalization practices, and whether this section of the HSPPS should be updated or amended. OHS seeks input on how program regulations and policies can improve how tribal elders and other community members participate in and contribute to language preservation efforts and how this information could be used to inform policy guidance, technical assistance, and training materials. OHS also understands that some programs have been particularly creative with utilizing existing flexibilities to improve tribal language and culture preservation efforts, integrating traditional ways in the classroom such as harvesting, carving, fishing, dancing, singing, and drumming. OHS requests comments on best practices or supports needed for programs that are looking to increase language and cultural integration into programming.

F. Family and Community Engagement

OHS recognizes the historical trauma that tribes have faced, and the recent disproportional trauma experienced by tribes from the COVID–19 pandemic, which has resulted in tremendous losses. Because of this, family engagement is more important now than ever before. Family engagement and involvement is the cornerstone of the Head Start model, as demonstrated in several sections of the Head Start Act and the HSPPS. Section 1302 Subpart E of the HSPPS outlines requirements for Family and Community Engagement Program Services that programs must follow. In Section 1302.50, programs are required to integrate parent and family engagement strategies into all systems and program services to support family well-being and promote children's learning and development. Programs are encouraged to develop multi-generational approaches that address prevalent needs of families. Family engagement may look different in tribal communities than other communities, given the prevalence of multi-generational families and a more communal approach to raising and caring for children. AI/AN programs may be utilizing tailored family engagement approaches to effectively engage extended family and community members in addition to parents.

Many AI/AN programs are working hard to integrate families into their programs. For example, some AI/AN programs incorporate families into their classrooms as part of summer programming or cultural camp experiences. In fact, the most recent 2022 Program Information Report data show that 45 percent of staff in AI/AN programs are current or former parents. This shows that AI/AN programs are incorporating families into their programming and cultivating strong partnerships that lead to parental employment.

Request for Information

What are your thoughts on the family and community engagement requirements, regulations, and TTA supports for AI/AN Head Start programs as outlined above? See below for more specific prompts to target feedback on family and community engagement.

F. Family and Community Engagement

There are many ways that programs can choose to integrate families and communities into their programming. OHS would like to understand the barriers that programs face when engaging with parents and families, and whether the HSPPS are clear and culturally appropriate when explaining the expectations with respect to family engagement. Additionally, OHS would like to understand how TTA can be improved in this area. OHS seeks comment on any improvements that could be made in the training materials and resources that are provided to tribal programs.

G. Investing in the Workforce

Retention, Recruitment, Compensation, and Benefits

Like many early childhood programs, Head Start—including AI/AN Head Start programs—report difficulty recruiting and retaining staff. Last year, OHS issued guidance encouraging grant recipients to sustainably increase wages and benefits, and invited grant recipients to restructure their budget to accommodate such increases that sometimes includes a change in scope proposal to reduce the number of slots available. Most recently, OHS has released an NPRM with new proposed requirements to support and stabilize the Head Start workforce including proposed requirements for wages and benefits, and enhanced supports for staff health and wellness. Many programs are taking bold steps to address this workforce crisis. From providing financial incentives to offering additional supports to staff, some programs have found creative ways to maintain, foster, and grow their own workforce to support their programs.

Teacher Qualifications

Teacher qualifications in Head Start are set in the Head Start Act and then reflected through regulation in the HSPPS. Broadly, current teacher qualifications outline different requirements for lead teachers, assistant teachers, family child care providers, and Early Head Start teachers (Section 1302.91 of the HSPPS). For example, lead teachers in a Head Start center-based program must have at least an

associate or bachelor's degree in child development or early childhood education, equivalent coursework or otherwise meet the alternative credentialing requirements in section 648A(a)(3)(B) of the Act (and see 45 CFR 1302.91(e)(2)(ii)). Assistant teachers in Head Start must have, at a minimum, a Child Development Associate (CDA) credential or a state-awarded certificate that meets or exceeds the requirement for a CDA credential, or are enrolled in a program that will lead to an associate or baccalaureate degree, or are enrolled in a CDA credential program to be completed within 2 years of the time of hire (45 CFR 1302.91(3)).

OHS provides technical assistance to programs to support their workforce and teacher education, and provides resources for programs to use to determine state equivalency. However, OHS understands these standards can be difficult to meet, especially when considering the importance of tribal elders and Native language speakers and how these individuals may not meet teacher qualifications. OHS has heard consistently from tribal leaders and program administrators that the current education requirements prevent them from hiring staff, including elders, who they feel are best suited to pass on their cultures and languages and prepare their children to be thriving members of their tribes.

The Tribal Colleges and Universities (TCU) Head Start Partnership Program was developed to increase the number of qualified education staff working in AI/AN Head Start programs. Through this unique and successful partnership, TCUs achieve this goal by (1) building early childhood education career pathways in AI/AN communities, (2) addressing the employment needs of AI/AN tribes through a ''Growing Our Own'' Approach, and (3) meeting the unique needs of individual Native communities and supporting staff in AI/AN programs to acquire the competencies that ensure children's academic development while also supporting cultural identity. By 2028, there will be over 700 tribal education staff graduating with a certification and/or degree in early education including CDA, bachelor's degree, and master's degree programs offered by the TCUs leading institutions.

Request for Information

What are your thoughts on the workforce requirements, regulations, and TTA supports for AI/AN Head Start programs as outlined above? See below for more specific prompts to target feedback on retention, recruitment, compensation and benefits, teacher qualifications, and training and technical assistance.

G.1. Retention, Recruitment, Compensation, and Benefits

OHS seeks input on how programs have addressed the workforce shortage, including efforts to increase compensation and benefits, and what additional flexibilities AI/AN programs would like to see in order to make additional progress in this area. For example, OHS is requesting comment on the strategies, funding mechanisms, and approaches that programs take to recruiting and retaining teaching staff. Additionally, OHS is requesting comment on compensation and benefits packages that are being or could be implemented to improve recruitment and retention.

G.2. Teacher Qualifications

Current regulations and statute are specific about the types of education that qualify for teachers, assistant teachers, and family child care providers in Head Start and Early Head Start. Nonetheless, OHS seeks input on how this regulation could be improved to account for tribal variations in degree availability.

H. Training and Technical Assistance (TTA) for AIAN Programs

OHS-funded TTA is delivered primarily through four national TTA centers, each with their own specialty areas: (1) Early Childhood Development, Teaching, and Learning; (2) Health Behavioral Health and Safety; (3) Parent, Family, and Community Engagement; and (4) Program Management and Fiscal Operations. In addition, each Head Start region has regionally-based TTA providers that provide support to all programs in the region free of charge. Region XI, the region for all AI/AN Head Start programs, works collaboratively with their TTA providers to assist programs based on specific priority areas that are co-developed with AI/AN directors. TTA providers come on-site to programs to provide group training and technical assistance opportunities. This collaboration helps shape the direction of TTA that is provided in any given year. Additionally, each Head Start program has access to funding to use on their own TTA efforts. Programs can use these funds to support their own needs that align with their priorities outlined in their grant application.

Request for Information

What are your thoughts on TTA supports for AI/AN Head Start programs as outlined above? See below for more specific prompts to target feedback on TTA materials and resources and TTA funding for programs.

H.1. TTA Materials and Resources

OHS seeks feedback on whether the TTA that is designed for AI/AN programs is helpful for making programmatic decisions and crafting program policies that improve the quality of the programs. OHS would like input on the network of TTA resources, training, and materials. OHS seeks feedback on whether existing TTA is effective in elevating the voices of tribal members and their lived experiences in the OHS TTA network structure. OHS would like to understand if there are any areas where we can improve and be more culturally responsive and appropriate.

H.2. TTA Funding for Programs

OHS is requesting input on the structure and usage of individual TTA dollars that programs can use for their own targeted TTA. OHS would like to understand if more guidance or support on how best to use these targeted TTA funds is needed for tribal programs.

I. Supporting Partnerships With State Systems

AI/AN programs operate in 26 states that each have their own policies and relationships with tribal communities. As the needs of children and families are becoming more complex, OHS is prioritizing the coordination of Head Start services with state systems and national programs to strengthen outcomes for children prenatal to age 5 and their families. OHS utilizes Head Start collaboration offices (HSCO) across the country to strengthen partnerships with school systems that lead to the developmentally appropriate alignment of curricula, assessment, and instruction through Early Head Start and Head Start and across the early grades of the schools where Head Start children will enter. Region XI has its own HSCO, the National AI/AN Head Start Collaboration Office (NAIANHSCO), that works to identify potential partners for collaboration and communicates the needs of Head Start children and families. The NAIANHSCO forms alliances to provide appropriate support to Head Start and Early Head Start programs.

Request for Information

What are your thoughts on supporting partnerships with state systems through requirements, regulations, and TTA supports for AI/AN Head Start programs as outlined above? See below for more specific prompts to target feedback on supporting state systems.

I. Supporting State Systems

OHS would like input on how AI/AN programs are interfacing with state systems and national programs and if there is additional support that OHS can provide. Specifically, OHS requests information on additional supports OHS can provide at the federal level to support collaboration between tribes and states, such as tribal collaboration with Local Education Agencies to provide services for with children with disabilities. Additionally, OHS requests information on suggestions to improve information sharing across HSCOs, systems specialists on the TTA contract, and the regional office.

J. Facilities

AI/AN Head Start grant recipients have reported the need for facility improvements that include both major and minor renovations as well as the need for new construction. In 2020, OHS issued a report, Report to Congress on AIAN Head Start Facilities, which details the condition of the 155 AI/AN Head Start recipients who provide Head Start services across 26 states. A web survey was completed for 295 (56 percent) of the 530 AI/AN Head Start facilities in use at the time and found: 9 percent of facilities were 'poor', in need of major renovations across most areas and could potentially be decommissioned; 27 percent were 'fair', with multiple areas needing major or minor renovation; 33 percent were 'average', fully operational but could use a few minor renovations; 24 percent were 'good', fully operational with regular maintenance schedule; and only 7 percent were 'excellent' like a new facility.

Subpart E of 45 CFR 1303 implements the statutory requirements in the Head Start Act, Section 644(c), (f), and (g) related to facilities. It prescribes what a recipient must establish to show it is eligible to purchase, construct, and renovate facilities and explains how a recipient may apply for funds; details what measures a recipient must take to protect federal interest in facilities purchased, constructed, or renovated with grant funds; and concludes with other administrative provisions.

In addition to facility improvements, such as minor or major renovations and construction, Head Start facilities must be maintained to ensure each child served in Head Start and Early Head Start programs is properly safeguarded from environmental hazards. As outlined in the HSPSS in section 1302.47(b)(1)(iii), all facilities where children are served, including areas for learning, playing, sleeping, toileting, and eating are, at a minimum free from pollutants, hazards, and toxins that are accessible to children and could endanger children's safety. Of specific concern, lead in water and paint are environmental hazards that can be toxic for developing children and can have adverse effects on physical and behavioral health. As such, OHS released an Information Memorandum on addressing lead in water by testing, remediating, and replacing water service lines following the Environmental Protection Agency guidelines in Head Start facilities. This IM also provides information on other federal funding sources that can be leveraged to eliminate lead in facilities.

Tribal communities have been the recipients of many environmental injustices, and are disproportionately exposed to environmental contaminants based on where they live,[2] [3] highlighting the need to mitigate toxins, pollutants, and hazards in Head Start facilities—for children, families, and staff. Federally recognized tribes are not subject to state mandates, therefore tribal programs are not required to be licensed by the state. OHS understands that less than 3 percent of tribal public water systems have been included in government-mandated monitoring, which indicates a critical issue with expanding safety testing. To account for this, IHS provides environmental health and safety assessments of most tribal grant recipient facilities on an annual basis. While there are regular assessments, OHS recognizes there is not a steady source of OHS funds to address all health and safety improvements and needs identified by IHS.

OHS understands that often there is a lack of alternate facilities in rural and remote areas, forcing recipients to spend significant portions of their budget to maintain environmentally safe facilities. Tribes have asked OHS to create reliable recurring funding opportunities for renovation or construction of facilities, which could include funding for technology infrastructure and other improvements that facilitate high-quality programs.

Currently, both Head Start and Child Care and Development Fund (CCDF) funds can be used by tribes to construct and/or improve facilities for early care and education services. The Office of Child Care and OHS have different application submission, review, and approval processes, which can be cumbersome and particularly hard to navigate for tribes that wish to submit an application to use both sources of funding.

Request for Information

What are your thoughts on facility requirements, regulations, and TTA supports for AI/AN Head Start programs as outlined above? See below for more specific prompts to target feedback on facilities.

J. Facilities

OHS understands that facility improvements are critically important to providing quality environments. While OHS cannot increase funding opportunities for facilities absent congressional action, OHS would like input on current regulations, processes, and TTA supports related to AI/AN Head Start facilities and whether there are any improvements or changes that could be made to help further meet tribal needs. OHS also seeks input on how AI/AN Head Start programs are creating healthy and safe facilities free from toxins, pollutants, and hazards, such as lead in water and paint, and what barriers they encounter, if any, to safeguarding children. OHS recognizes that Head Start facilities are often designed to integrate culturally relevant modalities, imagery, and features that facilitate the preservation of traditions and culture and invites comment on best practices in this area. Additionally, OHS invites comment on specific challenges or barriers recipients have experienced with facility funding requirements, including the major renovation (also known as the 1303) application and approval process. We also specifically seek input on barriers to building a facility that will serve more than the Head Start program, such as facilities jointly funded by Head Start and CCDF.

K. Fiscal Operations and Management

Part 1303, Financial and Administrative Requirements, establishes regulations applicable to program administration and grants management for all grants under the Head Start Act. Some of these requirements include the 15 percent administrative cost limitation and the 20 percent non-federal match requirement.

Costs to develop and administer a program cannot be excessive or exceed 15 percent of the total approved program costs (Sec. 644(b)(2) of the Act). OHS understands that some tribes would like to remove the 15 percent administrative cost, as required in statute. While OHS does not have the authority to automatically waive the administrative cost cap requirement for tribes (which includes both federal costs and non-federal match), OHS wants to

remind tribes that they can request a waiver if (1) a delay or disruption to program services is caused by circumstances beyond the agency's control, or, (2) if an agency is unable to administer the program within the 15 percent limitation and if the agency can demonstrate efforts to reduce its development and administrative costs (1303.5 (b)(1) of HSPPS). If at any time within the grant funding cycle, a tribe estimates development and administration costs will exceed 15 percent of total approved costs, they must submit a waiver request to the responsible HHS official that explains why costs exceed the limit, that indicates the time period the waiver will cover, and that describes what the grantee will do to reduce its development and administrative costs to comply with the 15 percent limit after the waiver period (1303.5 (b)(2) of HSPPS).

In accordance with Section 640(b) of the Act, federal financial assistance to a grantee will not exceed 80 percent of the approved total program costs. A grantee must contribute 20 percent as non-federal match each budget period. OHS also understands that some tribes are requesting to remove the non-federal share match requirement. While OHS does not have the authority to institute automatic waivers for the non-federal share requirement for tribes, OHS reminds tribes that if an AI/AN program has been actively seeking non-federal match but is struggling to meet its requirement, it can apply to its regional office for a waiver. The following circumstances covered in the Head Start Act are considered when approving waivers:

- Lack of community resources that prevent a Head Start or Early Head Start program from providing all or a portion of the required match
- Impact of the cost the program may incur as it starts a new program in its initial years of operation
- Impact of an unanticipated increase in costs the program may incur
- Impact of a major disaster in a community that prevents the program from meeting its match
- Impact on the community that would result if the Head Start or Early Head Start program ceased to operate

The responsible HHS official may approve a waiver of all or a portion of the non-federal match requirement on the basis of the grantee's written application submitted for the budget period and any supporting evidence included.

Request for Information

What are your thoughts on fiscal operations and management requirements, regulations, and TTA supports for AI/AN Head Start programs as outlined above? See below for more specific prompts to target feedback on fiscal operations.

K. Fiscal Operations

OHS invites comment on specific challenges or barriers recipients have experienced with these fiscal requirements, and others not listed, as well as any opportunities we can improve to better support tribes in fiscal management and oversight.

L. Early Childhood Systems

Tribal early childhood development programs that serve young children and their families, including Head Start, CCDF, and tribal Maternal, Infant, and Early Childhood Home Visiting (MIECHV), have separate funding sources, standards, regulations, and governance structures. Some tribes have shared that they have encountered challenges in collaborating across programs to develop a comprehensive birth to 5 approach to early care and education, while others have had success with collaboration and early childhood systems building.

ACF has engaged in efforts to support more coordinated and integrated tribal early childhood programs and systems, including the Tribal Early Learning Initiative (TELI). TELI is a partnership between ACF and tribes to better coordinate tribal early learning programs, create seamless systems for high-quality early childhood, raise the quality of services, and identify and break down barriers to collaboration and system improvement.

Request for Information

What are your thoughts on the early childhood systems requirements, regulations, and TTA supports for AI/AN Head Start programs as outlined above? See below for more specific prompts to target feedback on early childhood systems.

L. Early Childhood Systems

OHS understands that AI/AN Head Start programs have experienced both successes and barriers to collaboration with other early childhood system partners, including child care, home visiting, and other programs serving young children and their families. We welcome input regarding the provisions of the HSPPS that inhibit or promote collaboration to establishing seamless and integrated supports for families. We also welcome input on what policy guidance or TTA would be helpful in enabling tribes to better align and coordinate programs and build stronger early childhood systems.

M. Other Topics

Please describe any other OHS tribal regulations and processes that interfere with tribal nations' Head Start program implementation and/or policies, regulations or TTA supports not yet addressed in this RFI and proposed solution(s).

Megan Steel,

ACF Certifying Officer.

[FR Doc. 2024–05573 Filed 3–15–24; 8:45 am]

BILLING CODE 4184–40–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2010–D–0133]

Pharmacokinetics in Patients With Impaired Renal Function—Study Design, Data Analysis, and Impact on Dosing; 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 ''Pharmacokinetics in Patients with Impaired Renal Function—Study Design, Data Analysis, and Impact on Dosing.'' In general, drug development programs should be conducted so that when products are approved, the labeling provides appropriate dosing recommendations for patients with renal impairment. This guidance is intended to assist sponsors in the design and analysis of studies that assess the influence of impaired renal function on the pharmacokinetics (PK) and/or pharmacodynamics (PD) of an investigational drug and addresses how such information can inform the labeling. This guidance finalizes the draft guidance ''Pharmacokinetics in Patients with Impaired Renal Function—Study Design, Data Analysis, and Impact on Dosing'' issued on September 4, 2020.

DATES: The announcement of the guidance is published in the **Federal Register** on March 18, 2024.

ADDRESSES: You may submit either electronic or written comments on Agency guidances 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–2010–D–0133 for ''Pharmacokinetics in Patients with Impaired Renal Function—Study Design, Data Analysis, and Impact on Dosing.'' 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 this 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. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

FOR FURTHER INFORMATION CONTACT: Martina Sahre, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., WO51/2114, Silver Spring, MD 20993–0002, 301–796–9659.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a final guidance for industry entitled ''Pharmacokinetics in Patients with Impaired Renal Function—Study Design, Data Analysis, and Impact on Dosing.'' The kidneys are involved in the elimination of many drugs, where the degree of renal excretion of unchanged drug and/or metabolites is the net result of glomerular filtration, tubular secretion, tubular reabsorption, and to a lesser degree metabolism. If a drug is eliminated primarily through renal excretion, then impaired renal function often alters the drug's PK to an extent that a change in the dosage from that used in patients with normal renal function should be considered. Literature reports indicate that impaired renal function can alter some drug metabolism and transport pathways in the liver and gut, thus there is the potential for renal impairment to also affect drugs that are predominantly cleared nonrenally. For these reasons, it is important to characterize a drug's PK in subjects with impaired renal function to provide appropriate dosage recommendations.

The safety and effectiveness of a drug are generally established for specific dosage regimens in late-phase clinical trials that enroll patients from the intended target patient population. Sometimes, individuals with impaired renal function are explicitly excluded from participation in these trials. Drug development programs should include an early characterization of the effect of impaired renal function on a drug's PK, with the goal of enabling the inclusion of this population in late-phase trials by allowing appropriate prospective dosage adjustment.

This guidance finalizes the draft guidance of the same title issued on September 4, 2020 (85 FR 55303). Revisions to the draft guidance include an expansion of the section on renal replacement therapies, especially the language related to continuous renal replacement therapy. Further revisions include an edit to the classification stages for the purpose of enrolling into a stand-alone renal impairment study.

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 ''Pharmacokinetics in Patients with Impaired Renal Function—Study Design, Data Analysis, and Impact on Dosing.'' 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 (44 U.S.C. 3501–3521). The collections of information in 21 CFR 201.57 pertaining to certain prescription drug labeling have been approved under OMB control number 0910–0572. The collections of information in 21 CFR part 312 pertaining to the submission of investigational new drug applications have been approved under OMB control number 0910–0014. The collections of information in 21 CFR part 314 pertaining to the submission of new drug applications have been approved under OMB control number 0910–0001. The collections of information in 21 CFR part 601 pertaining to biologics license applications have been approved under OMB control number 0910–0338.

III. Electronic Access

Persons with access to the internet may obtain the guidance at *https://www.regulations.gov, https://www.fda.gov/regulatory-information/search-fda-guidance-documents,* or *https://www.fda.gov/drugs/guidance-compliance-regulatory-information/guidances-drugs.*

Dated: March 12, 2024.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2024–05683 Filed 3–15–24; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2024–D–1054]

Manufacture of Batches in Support of Original New Animal Drug Applications, Abbreviated New Animal Drug Applications, and Conditional New Animal Drug Applications; 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) #285 entitled ''Manufacture of Batches in Support of Original NADAs, ANADAs, and CNADAs.'' This draft guidance is intended to provide recommendations for the primary batches of drug product manufactured to support the approval or conditional approval of new animal drug products. This guidance is applicable to all original new animal drug applications (NADAs) and abbreviated new animal drug applications (ANADAs), and their associated investigational new animal drug files (INADs) and generic investigational new animal drug files, respectively, as well as applications for conditional approval of new animal drugs (CNADAs).

DATES: Submit either electronic or written comments on the draft guidance by May 17, 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–2024–D–1054 for ''Manufacture of Batches in Support of Original NADAs, ANADAs, and CNADAs.'' 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: Amy Simms, Center for Veterinary Medicine (HFV–140), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 240–402–0648, *Amy.Simms@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry #285 entitled ''Manufacture of Batches in Support of Original NADAs, ANADAs, and CNADAs.'' New animal drugs cannot be legally marketed unless they are the subject of an approved NADA, ANADA, or CNADA. The Chemistry, Manufacturing, and Controls (CMC) technical section is one portion of the original ANADA or CNADA and must contain full information regarding the manufacture of the new animal drug substance and new animal drug product. Animal drug manufacturing processes must be robust and able to produce drug product batches of consistent identity, strength, quality, and purity. Primary batches of drug product are manufactured as part of the original application. Data from these batches are used to establish that the manufacturing, sampling, and control processes described in the CMC portion of the application will consistently provide a quality, stable drug product that, within a batch and on a batch-to-batch basis, does not vary beyond the established specification(s). Additionally, they are used in studies to establish that the drug product is safe and effective (or in the case of an ANADA, bioequivalent to the reference listed new animal drug). As such, the primary batches demonstrate that the applicant can consistently manufacture batches of same quality as those used in safety and effectiveness (or bioequivalence) studies. This guidance provides recommendations for the primary batches of drug product manufactured to support the approval or conditional approval of new animal drug products.

This level 1 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 ''Manufacture of Batches in Support of Original NADAs, ANADAs, and CNADAs.'' 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 21 CFR part 514 have been approved under OMB control number 0910–0032; the collections of information in 21 CFR 511.1 have been approved under OMB control number 0910–0117; and the collections of information in sections 512(b) and 512(n) of the Federal Food, Drug, and Cosmetic Act 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: March 12, 2024.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2024–05686 Filed 3–15–24; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2024–N–1180]

Bayer HealthCare Pharmaceuticals Inc.; Withdrawal of Approval of New Drug Application for ALIQOPA (Copanlisib) for Injection, 60 Milligrams per Vial

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is withdrawing approval of the new drug application (NDA) for ALIQOPA (copanlisib) for injection, 60 milligrams (mg)/vial, held by Bayer HealthCare Pharmaceuticals Inc., 100 Bayer Blvd., Whippany, NJ 07981–0915. Bayer HealthCare Pharmaceuticals Inc. (Bayer) has voluntarily requested that FDA withdraw approval of this application and has waived its opportunity for a hearing.

DATES: Approval is withdrawn as of March 18, 2024.

FOR FURTHER INFORMATION CONTACT: Kimberly Lehrfeld, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6226, Silver Spring, MD 20993–0002, 301–796–3137, *Kimberly.Lehrfeld@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: On September 14, 2017, FDA approved NDA 209936 for ALIQOPA (copanlisib) for injection, 60 mg/vial, for the treatment of adult patients with relapsed follicular lymphoma (FL) who have received at least two prior systemic therapies, under the Agency's accelerated approval regulations, 21 CFR part 314, subpart H. The accelerated approval of ALIQOPA (copanlisib) for injection, 60 mg/vial, for FL included required postmarketing trials intended to verify the clinical benefit of ALIQOPA.

FDA met with Bayer on November 8, 2023, to discuss voluntary withdrawal of ALIQOPA (copanlisib) for injection, 60 mg/vial, in accordance with § 314.150(d) (21 CFR 314.150(d)) because the required postmarketing trial did not verify the clinical benefit of copanlisib for FL.

On December 8, 2023, Bayer submitted a letter asking FDA to withdraw approval of NDA 209936 for ALIQOPA (copanlisib) for injection, 60 mg/vial, in accordance with § 314.150(d) and waiving its opportunity for a hearing. On December 11, 2023, FDA acknowledged Bayer's request for withdrawal of approval of the NDA and waiver of its opportunity for a hearing.

For the reasons discussed above, and in accordance with the applicant's request, approval of NDA 209936 for ALIQOPA (copanlisib) for injection, 60 mg/vial, and all amendments and supplements thereto, is withdrawn under § 314.150(d). Distribution of ALIQOPA (copanlisib) for injection, 60 mg/vial, into interstate commerce without an approved application is illegal and subject to regulatory action (see sections 505(a) and 301(d) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(a) and 331(d))).

Dated: March 12, 2024.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2024–05619 Filed 3–15–24; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–D–1167]

Controlled Correspondence Related to Generic Drug Development; 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 ''Controlled Correspondence Related to Generic Drug Development.'' This guidance provides information regarding the process by which generic drug manufacturers and related industry can submit controlled correspondence to FDA requesting information related to generic drug development and the Agency's process for providing communications related to such correspondence. This guidance also describes the process by which generic drug manufacturers and related industry can submit requests to clarify ambiguities in FDA's controlled correspondence response and the Agency's process for responding to those requests. This guidance finalizes the draft guidance of the same title issued on December 22, 2022. This guidance replaces the guidance ''Controlled Correspondence Related to Generic Drug Development'' issued on December 17, 2020.

DATES: The announcement of the guidance is published in the **Federal Register** on March 18, 2024.

ADDRESSES: You may submit either electronic or written comments on Agency guidances 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–2014–D–1167 for ''Controlled Correspondence Related to Generic Drug Development.'' 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 this 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: Lisa Bercu, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 75, Rm. 1672, Silver Spring, MD 20993–0002, 240–402–6902.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a guidance for industry entitled ''Controlled Correspondence Related to Generic Drug Development.'' This guidance provides information regarding the process by which generic drug manufacturers and related industry can submit to FDA controlled correspondence requesting information related to generic drug development and the Agency's process for providing communications related to such correspondence. This guidance also describes the process by which generic drug manufacturers and related industry can submit requests to clarify ambiguities in FDA's controlled correspondence response and the Agency's process for responding to those requests. In accordance with the Generic Drug User Fee Amendments (GDUFA) Reauthorization Performance Goals and Program Enhancements Fiscal Years 2023–2027 (GDUFA III commitment letter), FDA agreed to certain review goals and procedures for

the review of controlled correspondence received on or after October 1, 2022.

The GDUFA III commitment letter defines level 1 controlled correspondence and level 2 controlled correspondence, and this guidance provides additional details and recommendations concerning what inquiries FDA considers controlled correspondence for the purposes of meeting the Agency's performance goals under the GDUFA III commitment letter. In addition, this guidance provides details and recommendations concerning what information requestors should include in a controlled correspondence to facilitate FDA's consideration of and response to a controlled correspondence and what information FDA will provide in its communications to requestors that have submitted controlled correspondence. As described in the GDUFA III commitment letter, FDA has also agreed to review and respond to requests to clarify ambiguities in the controlled correspondence response, and the guidance provides information on how requestors can submit these requests and the Agency's process for responding to them.

This guidance finalizes the draft guidance for industry entitled ''Controlled Correspondence Related to Generic Drug Development'' issued on December 22, 2022 (87 FR 78691). FDA considered comments received on the draft guidance as the guidance was finalized. Changes from the draft to the final guidance include updating the guidance to clarify the role of a cover letter to a controlled correspondence; clarify that authorized agents submitting controlled correspondence should include the name of and contact information for the generic drug manufacturer or related industry they are representing; and explain that FDA intends to alert requestors whether their inquiry is a level 1 or level 2 controlled correspondence and if FDA changes the level of the controlled correspondence (*e.g.,* from level 1 to level 2) during substantive review. In addition, editorial changes 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 ''Controlled Correspondence Related to Generic Drug Development.'' 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 21 CFR parts 312 and 314 have been approved under OMB control numbers 0910–0014 and 0910–0001, respectively. The collections of information for controlled correspondence, covered product authorizations, and GDUFA III meetings are approved under OMB control number 0910–0727. The collections of information for risk evaluation and mitigation strategies and medication guides are approved under OMB control number 0910–0393. The collections of information for citizen petitions are approved under OMB control number 0910–0191. The collections of information for premarket approval of drug-device combination products as described in the draft guidance for industry entitled ''Comparative Analyses and Related Comparative Use Human Factors Studies for a Drug-Device Combination Product Submitted in an ANDA'' have been approved under OMB control number 0910–0231.

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: March 12, 2024.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2024–05687 Filed 3–15–24; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–D–0077]

Early Alzheimer's Disease: Developing Drugs for Treatment; Draft Guidance for Industry; Availability

Correction

In notice document 2024–05178, appearing on pages 17850 through 17851 in the issue of Tuesday, March 12, 2024, make the following correction:

On page 17850, in the second column, on the third line, ''May 13, 2024'' should read ''June 10, 2024''.

[FR Doc. C1–2024–05178 Filed 3–15–24; 8:45 am]

BILLING CODE 0099–10–D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health and Human Development; Notice of Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the National Advisory Board on Medical Rehabilitation Research. The meeting will be held as a virtual meeting and is open to the public. Individuals who plan to attend as well as those who need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed as below in advance of the meeting. The meeting will be videocast and can be accessed from the NIH Videocasting website (*http://videocast.nih.gov*).

Name of Committee: National Advisory Board on Medical Rehabilitation Research.

Date: May 6–7, 2024.

Time: May 6, 2024, 10:00 a.m. to 2:00 p.m.

Agenda: NICHD Director's Report, NCMRR Director's report; Scientific Presentation on Promoting Function and Inclusion for people with Spinal Cord Injury; Review of NINDS Traumatic Brain Injury Nomenclature Workshop; Concept Clearance.

Place: Eunice Kennedy Shriver National Institute of Child Health and Human Development, National Institutes of Health, 6710B Rockledge Drive, Bethesda, MD 20892–7510 (Virtual Meeting).

Time: May 7, 2024, 10:00 a.m. to 2:30 p.m.

Agenda: Science Talk: Advocating for Cerebral Palsy Research; Update from NICHD Office of Health Equity; Pediatric Medical Device Public-Private Partnerships; Updates from The Advanced Research Projects Agency for Health; Updating the NIH Rehabilitation Research Plan; Words from Retiring Board Members; Planning for Next Board Meeting in December 2024.

Place: Eunice Kennedy Shriver National Institute of Child Health and Human Development, National Institutes of Health, 6710B Rockledge Drive, Bethesda, MD 20892–7510 (Virtual Meeting).

Contact Person: Ralph M. Nitkin, Ph.D., Deputy, National Center for Medical Rehabilitation Research, Eunice Kennedy Shriver National Institute of Child Health and Human Development, National Institutes of Health, 6710B Rockledge Drive, Room 2116, Bethesda, MD 20892–7510, (301) 402–4206, *nitkinr@mail.nih.gov.*

Information is also available on the Institute's/Center's home page: *https://www.nichd.nih.gov/about/advisory/nabmrr,*

where an agenda and any additional information for the meeting will be posted when available.

(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: March 12, 2024.

Lauren A. Fleck,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–05653 Filed 3–15–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Minority Health and Health Disparities; Notice of Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the National Advisory Council on Minority Health and Health Disparities.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting. The open session will be videocast and can be accessed from the NIH Videocast at the following link: *http://videocast.nih.gov/.*

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 Advisory Council on Minority Health and Health Disparities.

Date: May 30, 2024.

Closed: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 31 Center Drive, Building 31C, Rooms 6 C, D, E, F, G, Bethesda, MD 20892.

Name of Committee: National Advisory Council on Minority Health and Health Disparities.

Date: May 31, 2024.

Closed: 8:00 a.m. to 4:30 p.m.

Agenda: Opening Remarks, Administrative Matters, Director's Report, Presentations, and Other Business of the Council.

Place: National Institutes of Health, 31 Center Drive, Building 31C, Rooms 6 C, D, E, F, G, Bethesda, MD 20892.

Contact Person: Paul Cotton, Ph.D., RDN, Director, Office of Extramural Research Activities, National Institute on Minority Health and Health Disparities, National Institutes of Health, 6707 Democracy Boulevard, Suite 800, Bethesda, MD 20892, 301–402–1366, *paul.cotton@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.

In the interest of security, NIH has procedures at *https://www.nih.gov/about-nih/visitor-information/campus-access-security* for entrance into on-campus and off-campus facilities. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors attending a meeting on campus or at an off-campus federal facility will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: NIMHD: *https://www.nimhd.nih.gov/about/advisory-council/,* where an agenda and any additional information for the meeting will be posted when available.

Dated: March 13, 2024.

Victoria E. Townsend,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–05701 Filed 3–15–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Closed Meetings

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel; R25 Course on Clinical Trial Methods in Neurological Disorders (RFA–NS–23–030).

Date: April 3, 2024.

Time: 2:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852.

Contact Person: Steven G. Britt, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Activities, NINDS/NIH/HHS, NSC, 6001 Executive Blvd., Rockville, MD 20852, 301–480–1953, *steve.britt@nih.gov.*

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel; Clinical Trials in Neurology.

Date: April 4–5, 2024.

Time: 9:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate cooperative agreement applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852.

Contact Person: Shanta Rajaram, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Activities, NINDS/NIH/HHS, NSC, 6001 Executive Blvd., Rockville, MD 20852, 301–435–6033, *rajarams@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS).

Dated: March 12, 2024.

Lauren A. Fleck,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–05656 Filed 3–15–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; 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 Cancer Institute, Initial Review Group; Cancer Centers Study Section (A).

Date: May 9, 2024.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda North Marriott Hotel and Conference Center, Montgomery County Conference Center Facility, 5701 Marinelli Road, North Bethesda, Maryland 20852.

Contact Person: Shamala K. Srinivas, Ph.D., Associate Director, Office of Referral Review, and Program Coordination, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W530, Rockville, Maryland 20850, 240–276–6442, *ss537t@nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; NCI SPORE (P50) Review SEP–II.

Date: May 15–16, 2024.

Time: 9:30 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute, Shady Grove, 9609 Medical Center Drive, Room 7W248, Rockville, Maryland 20850 (Virtual Meeting).

Contact Person: Anita T. Tandle, Ph.D., Scientific Review Officer, Research Programs Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W248, Rockville, Maryland 20850, 240–276–5085, *tandlea@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; NCI SPORE (P50) Review SEP–I.

Date: May 16–17, 2024.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute, Shady Grove, 9609 Medical Center Drive, Room 7W244, Rockville, Maryland 20850 (Virtual Meeting).

Contact Person: John Paul Cairns, Ph.D., Scientific Review Officer, Research Programs Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W244, Rockville, Maryland 20850, 240–276–5415, *paul.cairns@nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; SEP–4: NCI Clinical and Translational Cancer Research.

Date: May 21–22, 2024.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute at Shady Grove, 9609 Medical Center Drive, Room 7W264, Rockville, Maryland 20850 (Virtual Meeting).

Contact Person: Ombretta Salvucci, Ph.D., Scientific Review Officer, Special Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W264, Rockville, Maryland 20850, 240–276–7286, *salvucco@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; SEP–11: NCI Clinical and Translational Cancer Research.

Date: May 23, 2024.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute at Shady Grove, 9609 Medical Center Drive, Room 7W126, Rockville, Maryland 20850 (Virtual Meeting).

Contact Person: Mukesh Kumar, Ph.D., Scientific Review Officer, Research Program Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W126, Rockville, Maryland 20850, 240–276–6611, *mukesh.kumar3@nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; NCI Transition Career Development and Institutional Research Training.

Date: May 23, 2024.

Time: 10:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute at Shady Grove, 9609 Medical Center Drive, Room 7W234, Rockville, Maryland 20850 (Virtual Meeting).

Contact Person: Adriana Stoica, Ph.D., Scientific Review Officer, Resources and Training Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W234, Rockville, Maryland 20850, 240–276–6368, *Stoicaa2@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; Cancer Moonshot Scholars Diversity Program.

Date: May 29–30, 2024.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute at Shady Grove, 9609 Medical Center Drive, Room 7W106, Rockville, Maryland 20850 (Virtual Meeting).

Contact Person: Eduardo Emilio Chufan, Ph.D., Scientific Review Officer, Research Technology and Contract Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W106, Rockville, Maryland 20850, 240–276–7975, *chufanee@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; NCI Program Project (P01) Review SEP–C.

Date: June 20–21, 2024.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute at Shady Grove, 9609 Medical Center Drive, Room 7W244, Rockville, Maryland 20850 (Virtual Meeting).

Contact Person: Amr M. Ghaleb, Ph.D., Scientific Review Officer, Research Program Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W244, Rockville, Maryland 20850, 240–276–6611, *amr.ghaleb@nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; NCI Program Project (P01) Review SEP–A.

Date: June 20–21, 2024.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute at Shady Grove, 9609 Medical Center Drive, Room 7W120, Rockville, Maryland 20850 (Virtual Meeting).

Contact Person: Majed M. Hamawy, Ph.D., Scientific Review Officer, Research Programs Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W120, Rockville, Maryland 20850, 240–276–6457, *mh101v@nih.gov.*

Name of Committee: National Cancer Institute, Initial Review Group; Institutional Training and Education Study Section (F).

Date: June 20, 2024.

Time: 9:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute at Shady Grove, 9609 Medical Center Drive, Room 7W234, Rockville, Maryland 20850 (Virtual Meeting).

Contact Person: Adriana Stoica, Ph.D., Scientific Review Officer, Resources and Training Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W234, Rockville, Maryland 20850, 240–276–6368, *Stoicaa2@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: March 12, 2024.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–05654 Filed 3–15–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2024–0002]

Final Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: Flood hazard determinations, which may include additions or modifications of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or regulatory floodways on the Flood Insurance Rate Maps (FIRMs) and where applicable, in the supporting Flood Insurance Study (FIS) reports have been made final for the communities listed in the table below.

The FIRM and FIS report are the basis of the floodplain management measures that a community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the Federal Emergency Management Agency's (FEMA's) National Flood Insurance Program (NFIP).

DATES: The date of June 20, 2024 has been established for the FIRM and, where applicable, the supporting FIS report showing the new or modified flood hazard information for each community.

ADDRESSES: The FIRM, and if applicable, the FIS report containing the final flood hazard information for each community is available for inspection at the respective Community Map Repository address listed in the tables below and will be available online through the FEMA Map Service Center at *https://msc.fema.gov* by the date indicated above.

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Mapping and Insurance eXchange (FMIX) online at *https://www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final determinations listed below for the new or modified flood hazard information for each community listed. Notification of these changes has been published in newspapers of local circulation and 90 days have elapsed since that publication. The Deputy Associate Administrator for Insurance and Mitigation has resolved any appeals resulting from this notification.

This final notice is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67. FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the new or revised FIRM and FIS report available at the address cited below for each community or online through the FEMA Map Service Center at *https://msc.fema.gov.*

The flood hazard determinations are made final in the watersheds and/or communities listed in the table below.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Nicholas A. Shufro,

Deputy Assistant Administrator for Risk Management, Federal Emergency Management Agency, Department of Homeland Security.

Community	Community map repository address
Shelby County, Indiana and Incorporated Areas Docket No.: FEMA–B–1744, FEMA–B–2249	
City of Shelbyville	Shelbyville Planning Commission, 44 West Washington Street, Shelbyville, IN 46176.
Town of Edinburgh	Town Hall, 107 South Holland Street, Edinburgh, IN 46124.
Unincorporated Areas of Shelby County	Shelby County Courthouse Annex, 25 West Polk Street, Shelbyville, IN 46176.
Cumberland County, Maine (All Jurisdictions) Docket No.: FEMA–B–1830 and FEMA–B–2271	
City of Portland	City Hall, 389 Congress Street, Portland, ME 04101.
City of South Portland	Planning and Development Department, 829 Sawyer Street, South Portland, ME 04106.
City of Westbrook	Code Enforcement Department, 2 York Street, Westbrook, ME 04092.
Town of Baldwin	Baldwin Town Hall, Code Enforcement Office, 534 Pequawket Trail, West Baldwin, ME 04091.
Town of Bridgton	Municipal Complex, 3 Chase Street, Suite 1, Bridgton, ME 04009.
Town of Brunswick	Town Hall, 85 Union Street, Brunswick, ME 04011.
Town of Cape Elizabeth	Town Hall, 320 Ocean House Road, Cape Elizabeth, ME 04107.
Town of Casco	Town Office, 635 Meadow Road, Casco, ME 04015.
Town of Chebeague Island	Town Office, 192 North Road, Chebeague Island, ME 04017.
Town of Cumberland	Town Hall, 290 Tuttle Road, Cumberland, ME 04021.
Town of Falmouth	Town Hall, 271 Falmouth Road, Falmouth, ME 04105.
Town of Freeport	Town Hall, 30 Main Street, Freeport, ME 04032.
Town of Frye Island	Town Hall, 10 Fairway Lane, Frye Island, ME 04071.
Town of Gorham	Municipal Center, 75 South Street, Gorham, ME 04038.
Town of Gray	Henry Pennell Municipal Complex, Community Development Department, 24 Main Street, Gray, ME 04039.
Town of Harpswell	Town Office, 263 Mountain Road, Harpswell, ME 04079.
Town of Harrison	Town Office, 20 Front Street, Harrison, ME 04040.
Town of Long Island	Town Hall, 105 Wharf Street, Long Island, ME 04050.
Town of Naples	Town Hall, 15 Village Green Lane, Naples, ME 04055.
Town of New Gloucester	Town Hall, 385 Intervale Road, New Gloucester, ME 04260.
Town of North Yarmouth	Town Hall, 10 Village Square Road, North Yarmouth, ME 04097.
Town of Pownal	Town Hall, 429 Hallowell Road, Pownal, ME 04069.
Town of Raymond	Town Hall, 401 Webbs Mills Road, Raymond, ME 04071.
Town of Scarborough	Municipal Building, Planning and Code Enforcement Office, 259 US Route 1, Scarborough, ME 04074.

Community	Community map repository address
Town of Sebago	Town Office, Code Enforcement, 406 Bridgton Road, Sebago, ME 04029.
Town of Standish	Town Hall, 175 Northeast Road, Standish, ME 04084.
Town of Windham	Town Hall, Code Enforcement Department, 8 School Road, Windham, ME 04062.
Town of Yarmouth	Town Hall, 200 Main Street, Yarmouth, ME 04096.
Wilkin County, Minnesota and Incorporated Areas Docket No.: FEMA–B–1925	
City of Breckenridge	City Hall, 420 Nebraska Avenue, Breckenridge, MN 56520.
Unincorporated Areas of Wilkin County	Wilkin County Recycling Center, 505 South 8th Street, Breckenridge, MN 56520.
Wright County, Minnesota and Incorporated Areas Docket Nos.: FEMA–B–1627 and FEMA–B–2315	
City of Buffalo	City Center, 212 Central Avenue, Buffalo, MN 55313.
City of Clearwater	City Hall, 605 County Road 75, Clearwater, MN 55320.
City of Cokato	City Hall, 255 Broadway Avenue South, Cokato, MN 55321.
City of Delano	City Hall, 234 2nd Street North, Delano, MN 55328.
City of Maple Lake	City Hall, 10 Maple Avenue South, Maple Lake, MN 55358.
City of Monticello	City Hall, 505 Walnut Street, Monticello, MN 55362.
City of Montrose	City Hall, 311 Buffalo Avenue South, Montrose, MN 55363.
City of Ostego	City Hall, 13400 90th Street NE, Otsego, MN 55330.
City of St. Michael	City Hall, 11800 Town Center Drive NE, St. Michael, MN 55376.
City of Waverly	City Hall, 502 Atlantic Avenue, Waverly, MN 55390.
Township of Corinna	Corinna Township Hall, 9801 Ireland Avenue NW, Annandale, MN 55302.
Unincorporated Areas of Wright County	Wright County Government Center, 3650 Braddock Avenue NE, Buffalo, MN 55313.
Roosevelt County, New Mexico and Incorporated Areas Docket No.: FEMA–B–2150 and FEMA–B–2303	
City of Portales	Memorial Building, 200 East 7th Street, Portales, NM 88130.
Town of Elida	Town Hall, 704 Clark Street, Elida, NM 88116.
Village of Causey	Roosevelt County, Bonem House, 1111 West Fir Street, Portales, NM 88130.
Village of Dora	Roosevelt County, Bonem House, 1111 West Fir Street, Portales, NM 88130.
Village of Floyd	Roosevelt County, Bonem House, 1111 West Fir Street, Portales, NM 88130.
Unincorporated Areas of Roosevelt County	Roosevelt County, Bonem House, 1111 West Fir Street, Portales, NM 88130.
Allen County, Ohio and Incorporated Areas Docket No.: FEMA–B–2145 and FEMA–B–2315	
City of Delphos	Municipal Building, 608 North Canal Street, Delphos, OH 45833.
City of Lima	Municipal Center, 50 Town Square, Lima, OH 45801.
Unincorporated Areas of Allen County	Allen County Board of Elections, 204 North Main Street, Suite 301, Lima, OH 45801.
Village of Elida	Town Hall, 406 East Main Street, Elida, OH 45807.
Village of Lafayette	Community Building, 225 East Sugar Street, Lafayette, OH 45854.
Luzerne County, Pennsylvania (All Jurisdictions) Docket No.: FEMA–B–2124 and FEMA–B–2315	
Borough of Duryea	Borough Building, 315 Main Street, Duryea, PA 18642.
Borough of Edwardsville	Borough Building, 470 Main Street, Edwardsville, PA 18704.
Borough of Exeter	Municipal Building, 1101 Wyoming Avenue, Exeter, PA 18643.
Borough of Forty Fort	Borough Building, 1271 Wyoming Avenue, Forty Fort, PA, 18704.
Borough of Kingston	Municipal Building, 500 Wyoming Avenue, Kingston, PA 18704.
Borough of Larksville	Municipal Building, 211 East State Street, Larksville, PA 18704.
Borough of Luzerne	Municipal Building, 144 Academy Street, Luzerne, PA 18709.
Borough of Nescopeck	Municipal Building, 501 Raber Avenue, Nescopeck, PA 18635.
Borough of Plymouth	Administrative Offices, 162 West Shawnee Avenue, Plymouth, PA 18651.
Borough of Shickshinny	Borough Office, 35 West Union Street, Shickshinny, PA 18655.
Borough of Swoyersville	Borough Building, 675 Main Street, Swoyersville, PA 18704.
Borough of West Pittston	Borough Building, 555 Exeter Avenue, West Pittston, PA 18643.
Borough of West Wyoming	Borough Building, 464 West 8th Street, West Wyoming, PA 18644.
Borough of Wyoming	Borough Building, 277 Wyoming Avenue, Wyoming, PA 18644.
City of Nanticoke	City Hall, 15 East Ridge Street, Nanticoke, PA 18634.

Community	Community map repository address
City of Pittston	City Hall, 35 Broad Street, Pittston, PA 18640.
City of Wilkes-Barre	City Hall, 40 East Market Street, Wilkes-Barre, PA 18711.
Township of Conyngham	Township of Conyngham Municipal Building, 10 Pond Hill Road, Mocanaqua, PA 18655.
Township of Exeter	Township of Exeter Municipal Building, 2305 State Route 92, Harding, PA 18643.
Township of Hanover	Municipal Building, 1267 Sans Souci Parkway, Hanover Township, PA 18706.
Township of Hollenback	Township of Hollenback Municipal Building, 660 East County Road, Wapwallopen, PA 18660.
Township of Hunlock	Township of Hunlock Township Office, 33 Village Drive, Hunlock Creek, PA 18621.
Township of Jackson	Municipal Building, 1275 Huntsville Road, Jackson Township, PA 18708.
Township of Jenkins	Township of Jenkins Municipal Building, 461/2 Main Street, Inkerman, PA 18640.
Township of Nescopeck	Township Building, 429 Berwick-Hazelton Highway, Nescopeck, PA 18635.
Township of Newport	Township of Newport Municipal Building, 351 West Kirmar Avenue, Nanticoke, PA 18634.
Township of Plains	Municipal Building, 126 North Main Street, Plains, PA 18705.
Township of Plymouth	Municipal Building, 925 West Main Street, Plymouth, PA 18651.
Township of Salem	Township of Salem Township Office, 38 Bomboy Lane, Berwick, PA 18603.
Township of Union	Township of Union Municipal Building, 21 Municipal Road, Shickshinny, PA 18655.
Metropolitan Government of Nashville and Davidson County, Tennessee and Incorporated Areas Docket No.: FEMA–B–2294	
City of Berry Hill	Berry Hill City Hall, 698 Thompson Lane, Nashville, TN 37204.
Metro Government of Nashville-Davidson County	Nashville-Davidson County Metro Water and Sewage Service, 1600 2nd Avenue North, Nashville, TN 37208.
Hanover County, Virginia and Incorporated Areas Docket No.: FEMA–B–2300	
Town of Ashland	Planning and Community Development, Town Hall, 121 Thompson Street, Ashland, VA 23005.
Unincorporated Areas of Hanover County	Hanover County Public Works Department, 7516 County Complex Road, Hanover, VA 23069.

[FR Doc. 2024–05671 Filed 3–15–24; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2024–0002]

Final Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: Flood hazard determinations, which may include additions or modifications of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or regulatory floodways on the Flood Insurance Rate Maps (FIRMs) and where applicable, in the supporting Flood Insurance Study (FIS) reports have been made final for the communities listed in the table below.

The FIRM and FIS report are the basis of the floodplain management measures that a community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the Federal Emergency Management Agency's (FEMA's) National Flood Insurance Program (NFIP).

DATES: The date of July 3, 2024 has been established for the FIRM and, where applicable, the supporting FIS report showing the new or modified flood hazard information for each community.

ADDRESSES: The FIRM, and if applicable, the FIS report containing the final flood hazard information for each community is available for inspection at the respective Community Map Repository address listed in the tables below and will be available online through the FEMA Map Service Center at *https://msc.fema.gov* by the date indicated above.

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Mapping and Insurance eXchange (FMIX) online at *https://www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final determinations listed below for the new or modified flood hazard information for each community listed. Notification of these changes has been published in newspapers of local circulation and 90 days have elapsed since that publication. The Deputy Associate Administrator for Insurance and Mitigation has resolved any appeals resulting from this notification.

This final notice is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973,

42 U.S.C. 4104, and 44 CFR part 67. FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the new or revised FIRM and FIS report available at the address cited below for each community or online through the FEMA Map Service Center at *https://msc.fema.gov.*

The flood hazard determinations are made final in the watersheds and/or communities listed in the table below.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Nicholas A. Shufro,

Deputy Assistant Administrator for Risk Management, Federal Emergency Management Agency, Department of Homeland Security.

Community	Community map repository address
City and County of Denver, Colorado Docket No.: FEMA–B–2281	
City and County of Denver	Department of Transportation and Infrastructure, 201 West Colfax Avenue, Department 507, Denver, CO 80202.
Plymouth County, Massachusetts (All Jurisdictions) Docket No.: FEMA–B–2101, FEMA–B–2339	
Town of Abington	Town Hall, 500 Gliniewicz Way, Abington, MA 02351.
Town of Hingham	Town Hall, 210 Central Street, Hingham, MA 02043.
Town of Norwell	Town Hall, 345 Main Street, Norwell, MA 02061.
Town of Rockland	Town Hall, 242 Union Street, Rockland, MA 02370.
Suffolk County, Massachusetts (All Jurisdictions) Docket No.: FEMA–B–2101, FEMA–B–2339	
City of Boston	City Hall, 1 City Hall Square, Boston, MA 02201.
City of Chelsea	City Hall, 500 Broadway, Chelsea, MA 02150.
City of Revere	City Hall, 281 Broadway, Revere, MA 02151.
Hardin County, Ohio and Incorporated Areas Docket No.: FEMA–B–2323	
City of Kenton	City Building, 111 West Franklin Street, Kenton, OH 43326.
Unincorporated Areas of Hardin County	Hardin County Courthouse, Tax Map Department, One Courthouse Square, Suite 150, Kenton, OH 43326.
Village of Ada	Municipal Building, 115 West Buckeye Avenue, Ada, OH 45810.
Village of Alger	Village Office, 207 Angle Street, Alger, OH 45812.
Village of McGuffey	Municipal Building, 404 Courtright Street, McGuffey, OH 45859.

[FR Doc. 2024–05672 Filed 3–15–24; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–HQ–MB–2024–0042; FXMB12330900000–245–FF09M13200; OMB Control Number 1018–0172]

Agency Information Collection Activities; Federal Migratory Bird Hunting and Conservation Stamp (Duck Stamp) and Junior Duck Stamp Contests

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (PRA), we, the U.S. Fish and Wildlife Service (Service), are proposing to renew an information collection.

DATES: Interested persons are invited to submit comments on or before May 17, 2024.

ADDRESSES: Send your comments on the information collection request (ICR) by one of the following methods (reference ''1018–0172'' in the subject line of your comment):

- *Internet (preferred): https://www.regulations.gov.* Follow the instructions for submitting comments on Docket No. FWS–HQ–MB–2024–0042.
- *U.S. mail:* Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, 5275 Leesburg Pike, MS: PRB (JAO/3W), Falls Church, VA 22041–3803.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Madonna L. Baucum, Service Information Collection Clearance Officer, by email at *Info_Coll@fws.gov,* or by telephone at (703) 358–2503. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995 (PRA, 44 U.S.C. 3501 *et seq.*) and 5 CFR 1320.8(d)(1), we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

As part of our continuing effort to reduce paperwork and respondent burdens, we are again soliciting comments from the public and other Federal agencies on the proposed ICR that is described below. We are

especially interested in public comment addressing the following:

(1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility;

(2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) How might the agency minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of response.

Comments that you submit in response to this notice are a matter of public record. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract

History of the Federal Duck Stamp

On March 16, 1934, Congress passed, and President Franklin D. Roosevelt signed, the Migratory Bird Hunting Stamp Act (16 U.S.C. 718–718k). Popularly known as the Duck Stamp Act, it required all waterfowl hunters 16 years or older to buy a stamp annually. The revenue generated was originally earmarked for the Department of Agriculture, but 5 years later was transferred to the Department of the Interior and the Service.

In the years since its enactment, the Federal Duck Stamp Program has become one of the most popular and successful conservation programs ever initiated. Today, some 1.5 million stamps are sold each year, and as of 2023, Federal Duck Stamps have generated more than $1.2 billion for the preservation of more than 6 million acres of waterfowl habitat in the United States. Numerous other birds, mammals, fish, reptiles, and amphibians have similarly prospered because of habitat protection made possible by the program. An estimated one-third of the Nation's endangered and threatened species find food or shelter in refuges preserved by Duck Stamp funds. Moreover, the protected wetlands help dissipate storms, purify water supplies, store flood water, and nourish fish hatchlings important for sport and commercial fishermen.

History of the Duck Stamp Contest

Jay N. ''Ding'' Darling, a nationally known political cartoonist for the Des Moines Register and a noted hunter and wildlife conservationist, designed the first Federal Duck Stamp at President Roosevelt's request. In subsequent years, noted wildlife artists submitted designs. The first Federal Duck Stamp Contest was opened in 1949 to any U.S. artist who wished to enter, and 65 artists submitted a total of 88 design entries. Since then, the contest has been known as the Federal Migratory Bird Hunting and Conservation Stamp Art (Duck Stamp) Contest and has attracted large numbers of entrants.

The Duck Stamp Contest (50 CFR part 91) remains the only art competition of its kind regulated by the U.S. Government. The Secretary of the Interior appoints a panel of noted art, waterfowl, and philatelic authorities to select each year's winning design. Winners receive no compensation for the work, except for a signed pane of their stamps; however, winners retain the copyright to their artwork and may sell the original and prints of their designs, which are sought by hunters, conservationists, and art collectors.

For the Duck Stamp Contest, the Service selects five or fewer species of waterfowl each year; each entry must employ one of the Service-designated species as the dominant feature (defined as being in the foreground and clearly the focus of attention). Designs may also include national wildlife refuges as the background of habitat scenes, non-eligible species, or other scenes that depict uses of the stamp for waterfowl hunting, conservation, and collecting purposes. Entries may be in any media, except for photography or computer-generated art. Designs must be the contestants' original hand-drawn creation and may not be copied or duplicated from previously published art, including photographs, or from images in any format published on the internet.

History of the Junior Duck Stamp Contest

The Federal Junior Duck Stamp Conservation and Design Program (Junior Duck Stamp Program) began in 1989 as an extension of the Migratory Bird Conservation and Hunting Stamp. The national Junior Duck Stamp art contest started in 1993, and the first stamp design was selected from entries from eight participating States. The program was recognized by Congress with the 1994 enactment of the Junior Duck Stamp Conservation and Design Program Act (16 U.S.C. 719). All 50 States, Washington DC, and 2 of the U.S. Territories currently participate in the annual contest.

The Junior Duck Stamp Program introduces wetland and waterfowl conservation to students in kindergarten through high school. It crosses cultural, ethnic, social, and geographic boundaries to teach greater awareness and guide students in exploring our nation's natural resources. It is the Service's premier conservation education initiative.

The Junior Duck Stamp Program includes a dynamic art-and-science-based curriculum. This nontraditional pairing of subjects brings new interest to both the sciences and the arts. The program teaches students across the nation conservation through the arts, using scientific and wildlife observation principles to encourage visual communication about what they learn. Four curriculum guides, with activities and resources, were developed for use as a year-round study plan to assist students in exploring science in real-life situations.

Modeled after the Federal Duck Stamp Contest, the annual Junior Duck Stamp Art and Conservation Message Contest (Junior Duck Stamp Contest) was developed as a visual assessment of a student's learning and progression. The Junior Duck Stamp Contest encourages partnerships among Federal and State government agencies, nongovernmental organizations, businesses, and volunteers to help recognize and honor thousands of teachers and students throughout the United States for their participation in conservation-related activities. Since 2000, the contest has received more than 570,000 entries.

The winning artwork from the national art contest serves as the design for the Junior Duck Stamp, which the Service produces annually. This $5 stamp has become a much sought after collector's item. One hundred percent of the revenue from the sale of Junior Duck stamps goes to support recognition and environmental education activities for students who participate in the program. More than $1.25 million in Junior Duck Stamp proceeds have been used to provide recognition, incentives, and scholarships to participating students, teachers, and schools. The Program continues to educate youth

about land stewardship and the importance of connecting to the natural world. Several students who have participated in the Junior Duck Stamp Program have gone on to become full-time wildlife artists and conservation professionals; many attribute their interest and success to their early exposure to the Junior Duck Stamp Program.

Who Can Enter the Federal Duck Stamp and Junior Duck Stamp Contests

The Duck Stamp Contest is open to all U.S. citizens, nationals, and resident aliens who are at least 18 years of age by June 1. Individuals enrolled in kindergarten through grade 12 may participate in the Junior Duck Stamp Contest. All eligible students are encouraged to participate in the Junior Duck Stamp Conservation and Design Program annual art and conservation message contest as part of the program curriculum through public, private, and homeschools, as well as through nonformal educational experiences such as those found in scouting, art studios, and nature centers.

Entry Requirements

Each entry in the Duck Stamp Contest requires a completed entry form and an entry fee. Information required on the entry form includes:

- ''Display, Participation & Reproduction Rights Agreement'' certification form;
- Basic contact information (name, address, phone numbers, and email address);
- Date of birth (to verify eligibility);
- Species portrayed and medium used; and
- Name of hometown newspaper (for press coverage).

Each entry in the Junior Duck Stamp Contest requires a completed entry form that requests:

- Basic contact information (name, address, phone numbers, and email address);
- Age/grade (to verify eligibility and so they may be judged with their peers);
- Parent's name and contact information (email address and phone numbers);
- Whether the student has a Social Security or VISA immigration number or is a foreign exchange student (to verify eligibility to receive prizes);
- Title, species, medium/style used, and conservation message associated with the drawing;
- Basic contact information for their teacher and school (name, address, phone numbers, school/studio/organization/troop name, and email address); and
- Certification of authenticity.

Students in grades 7 through 12 and all national level students are also required to include citations for any resources they used to develop their designs. We use this information to verify that the student has not plagiarized or copied someone else's work. The Service also translates entry forms into other appropriate languages to increase the understanding of the rules and what the parents and students are signing.

Title of Collection: Federal Migratory Bird Hunting and Conservation Stamp (Duck Stamp) and Junior Duck Stamp Contests.

OMB Control Number: 1018–0172.

Form Number: None.

Type of Review: Extension of a currently approved information collection.

Respondents/Affected Public: Individuals.

Total Estimated Number of Annual Respondents: 25,200.

Total Estimated Number of Annual Responses: 25,200.

Estimated Completion Time per Response: Varies from 7–20 minutes, depending on activity.

Total Estimated Number of Annual Burden Hours: 8,356.

Respondent's Obligation: Voluntary.

Frequency of Collection: Annually.

Total Estimated Annual Nonhour Burden Cost: $53,000 annually (entry fees of $125 plus an average of $15 for mailing costs, for an estimated 200 annual submissions to the Federal Duck Stamp Contest). There are no fees associated with the Junior Duck Stamp Contest submissions. We estimate the mailing costs associated with entering submissions to the Junior Duck Stamp contest to be approximately $25,000 annually. Most of the student entries are mailed directly by schools, who utilize the bulk mail option, thereby reducing the amount of postage and packages received.

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Madonna Baucum,

Information Collection Clearance Officer, U.S. Fish and Wildlife Service.

[FR Doc. 2024–05693 Filed 3–15–24; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS–HQ–IA–2024–0040; FXIA16710900000–245–FF09A30000]

Foreign Endangered Species; Receipt of Permit Application

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of permit application; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service, invite the public to comment on an application to conduct certain activities with a foreign species that is listed as endangered under the Endangered Species Act (ESA). With some exceptions, the ESA prohibits activities with listed species unless Federal authorization is issued that allows such activities. The ESA also requires that we invite public comment before issuing permits for any activity otherwise prohibited by the ESA with respect to any endangered species.

DATES: We must receive comments by April 17, 2024.

ADDRESSES:

Obtaining Documents: The application, 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–2024–0040.

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–2024–0040.
- *U.S. mail:* Public Comments Processing, Attn: Docket No. FWS–HQ–IA–2024–0040; 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: Brenda Tapia, 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 this application. Before issuing the requested permit, 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 10(c) of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), we invite public comments on permit applications before final action is taken. With some exceptions, the ESA prohibits certain activities with listed species unless Federal authorization is issued that allows such activities. Permits issued under section 10(a)(1)(A) of the ESA allow otherwise prohibited activities for scientific purposes or to enhance the propagation or survival of the affected species. Service regulations regarding prohibited activities with endangered species, captive-bred wildlife registrations, and permits for any activity otherwise prohibited by the ESA with respect to any endangered species are available in title 50 of the Code of Federal Regulations in part 17.

III. Permit Application

We invite comments on the following application.

Applicant: Cornell University Museum of Vertebrates, Ithaca, NY; Permit No. PER3849508

The applicant requests a permit to import biological samples taken from saffron-cowled blackbirds (*Xanthopsar flavus*) from Argentina for the purpose of scientific research. This notification is for a single import.

IV. Next Steps

After the comment period closes, we will make decisions regarding permit issuance. If we issue permits to the applicant 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 *regulations.gov* and search for ''12345A''.

V. Authority

We issue this notice under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and its implementing regulations.

Brenda Tapia,

Supervisory Program Analyst/Data Administrator, Branch of Permits, Division of Management Authority.

[FR Doc. 2024–05723 Filed 3–15–24; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R8–ES–2024–N012; FXES11140800000–245–FF08EKLA00]

Incidental Take of Endangered Species; PacifiCorp Klamath Hydroelectric Project Interim Operations Habitat Conservation Plan in OR and CA; Permit Transfer

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of permit transfer.

SUMMARY: In 2014, under the Endangered Species Act, we, the U.S. Fish and Wildlife Service (Service), issued an incidental take permit (ITP) authorizing take of two federally endangered fish species incidental to otherwise lawful activities associated with implementation of the PacifiCorp Klamath Hydroelectric Project Interim Operations Habitat Conservation Plan. Subsequently, the Klamath River Renewal Corporation and the States of Oregon and California acquired ownership of lands covered by the ITP. We now announce that the Service has carried out a partial transfer of the ITP to these entities.

FOR FURTHER INFORMATION CONTACT: Rachel Henry, Regional Habitat Conservation Planning Coordinator, by email at *rachel_henry@fws.gov* or by telephone at 805–448–7484. 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: On January 28, 2013, we, the U.S. Fish and Wildlife Service, published a **Federal Register** notice announcing the availability for public comment of a draft environmental assessment (EA) under the National Environmental Policy Act (NEPA) for the interim operations of the Klamath Hydroelectric Project on the Klamath River, in Klamath County, Oregon, and Siskiyou County, California (78 FR 5830; January 28, 2013).

The EA was in association with an incidental take permit (ITP) application we received from PacifiCorp under the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), for take of two fish species, the Lost River sucker (*Deltistes luxatus*) and the shortnose sucker (*Chasmistes*

brevirostris), both of which are federally listed as endangered. After considering comments, on February 20, 2014, we issued the ITP to PacifiCorp, authorizing take of the species incidental to otherwise lawful activities associated with implementation of the PacifiCorp Klamath Hydroelectric Project Interim Operations Habitat Conservation Plan (HCP).

Subsequently, the Klamath River Renewal Corporation (KRRC) and the States of Oregon and California acquired ownership of lands covered by the ITP for the HCP. The KRRC and the States of Oregon and California expressed the desire to continue implementing pertinent provisions of the HCP on these lands and to continue to be covered by an ITP.

Partial transfer of an ITP is expressly authorized at 50 CFR 13.25. On November 30, 2023, KRRC and the States of Oregon and California submitted to the Service an application for an ITP, along with the assignment and assumption agreement to fulfill the requirements of processing the partial transfer of the HCP to KRRC and the States of Oregon and California.

On December 19, 2023, the Service, the KRRC, the States of Oregon and California, and PacifiCorp entered into an assignment and assumption agreement to facilitate the transfer of all relevant obligations to the KRRC and the States of Oregon and California and the partial transfer of permit TE52096A from PacifiCorp to KRRC and the States of Oregon and California, pursuant to 50 CFR 13.25.

Notice is hereby given that, on December 19, 2023, as authorized by the provisions of the ESA, the Service issued an ITP (PER 6149438) to KRRC and the States of Oregon and California subject to certain conditions set forth therein. The permit was granted only after the Service determined that it was applied for in good faith, that granting the permit would not be to the disadvantage of the endangered species, and that it will be consistent with the purposes and policies set forth in the ESA.

Authority

The Service provides this notice under section 10(c) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and its implementing regulations (50 CFR 17.32) and the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and its implementing regulations (40 CFR 1500–1508 and 43 CFR 46).

Jennie Land,

Field Supervisor, Klamath Falls Fish and Wildlife Office, Klamath Falls, Oregon.

[FR Doc. 2024–05703 Filed 3–15–24; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS–HQ–IA–2024–0038; FXIA16710900000–245–FF09A30000]

Endangered Species; Issuance of Permits

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of issuance of permits.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), have issued permits to conduct certain activities with endangered species. We issue these permits under the Endangered Species Act.

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: We, the U.S. Fish and Wildlife Service (Service), have issued permits to conduct certain activities with endangered and threatened species in response to permit applications that we received under the authority of section 10(a)(1)(A) of the Endangered Species Act of 1973 (ESA; 16 U.S.C. 1531 *et seq.*)

After considering the information submitted with each permit application and the public comments received, we issued the requested permits subject to certain conditions set forth in each permit. For each application for an endangered species, we found that (1) the application was filed in good faith, (2) the granted permit would not operate to the disadvantage of the endangered species, and (3) the granted permit would be consistent with the purposes and policy set forth in section 2 of the ESA.

Availability of Documents

The permittees' original permit application materials, along with public comments we received during public comment periods for the applications, are available for review. To locate the application materials and received comments, go to *https://www.regulations.gov* and search for the appropriate permit number (*e.g.,* PER12345) provided in the following table.

Permit No.	Applicant	Permit issuance date
PER4621221	Shawn Dooley	2024–01–24
PER3088762	Deborah Holland	2024–01–25
37949D	Marianne Kelley	2024–02–16
PER4147647	Donald Detweiler	2024–02–19
PER5176185	George Ready	2024–02–19
PER5176234	James Frash	2024–02–19
PER5225407	John Bethany	2024–02–26
PER5581670	George H. Wulff	2024–02–27

Authority

We issue this notice under the authority of the Endangered Species Act, as amended (16 U.S.C. 1531 *et seq.*), and its implementing regulations.

Timothy MacDonald,
Government Information Specialist, Branch of Permits, Division of Management Authority.

[FR Doc. 2024–05706 Filed 3–15–24; 8:45 am]
BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R4–ES–2024–N002; FXES11140400000–245–FF04E00000]

Endangered Species; Recovery Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of permit applications; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service, have received applications for permits to conduct activities intended to enhance the propagation or survival of endangered species under the Endangered Species Act. We invite the public and local, State, Tribal, and Federal agencies to comment on these applications. Before issuing any of the requested permits, we will take into consideration any information that we receive during the public comment period.

DATES: We must receive written data or comments on the applications by April 17, 2024.

ADDRESSES:

Reviewing Documents: Submit requests for copies of applications and other information submitted with the applications to Karen Marlowe (see **FOR FURTHER INFORMATION CONTACT**). All requests and comments should specify the applicant name and application number (*e.g.,* Mary Smith, ESPER0001234).

Submitting Comments: If you wish to comment, you may submit comments by one of the following methods:

- *Email (preferred method): permitsR4ES@fws.gov.* Please include your name and return address in your email message. If you do not receive a confirmation from the U.S. Fish and Wildlife Service that we have received your email message, contact us directly at the telephone number listed in **FOR FURTHER INFORMATION CONTACT**.
- *U.S. Mail:* U.S. Fish and Wildlife Service Regional Office, Ecological Services, 1875 Century Boulevard, Atlanta, GA 30345 (Attn: Karen Marlowe, Permit Coordinator).

FOR FURTHER INFORMATION CONTACT: Karen Marlowe, Permit Coordinator, via telephone at 404–679–7097 or via email at *karen_marlowe@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: We, the U.S. Fish and Wildlife Service, invite review and comment from the public and local, State, Tribal, and Federal agencies on applications we have received for permits to conduct certain activities with endangered and threatened species under section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and our regulations in the Code of Federal Regulations (CFR) at 50 CFR part 17. Documents and other information submitted with the applications are available for review, subject to the requirements of the Privacy Act of 1974, as amended (5 U.S.C. 552a), and the Freedom of Information Act (5 U.S.C. 552).

Background

With some exceptions, the ESA prohibits take of listed species unless a Federal permit is issued that authorizes such take. The definition of ''take'' in the ESA includes hunting, shooting, harming, wounding, or killing, and also such activities as pursuing, harassing, trapping, capturing, or collecting.

A recovery permit issued by us under section 10(a)(1)(A) of the ESA authorizes the permittee to take endangered or threatened species while engaging in activities that are conducted for scientific purposes that promote recovery of species or for enhancement of propagation or survival of species. These activities often include the capture and collection of species, which would result in prohibited take if a permit were not issued. Our regulations implementing section 10(a)(1)(A) of the ESA for these permits are found at 50 CFR 17.22 for endangered wildlife species, 50 CFR 17.32 for threatened wildlife species, 50 CFR 17.62 for endangered plant species, and 50 CFR 17.72 for threatened plant species.

Permit Applications Available for Review and Comment

The ESA requires that we invite public comment before issuing these permits. Accordingly, we invite local, State, Tribal, and Federal agencies, and the public to submit written data, views, or arguments with respect to these applications. The comments and recommendations that will be most useful and likely to influence agency decisions are those supported by quantitative information or studies. Proposed activities in the following permit requests are for the recovery and enhancement of propagation or survival of the species in the wild.

Permit application No.	Applicant	Species	Location	Activity	Type of take	Permit action
ES065972–4	U.S. Forest Service; Russellville, AR.	Tricolored bat (*Perimyotis subflavus*)	Ozark-St. Francis National Forests, Arkansas.	Presence/probable absence surveys.	Enter hibernacula and maternity roost caves; capture, handle, identify, band, radiotag, and release.	Amendment.
PER5292605–0	Amanda Miller; Winchester, TN.	Gray bat (*Myotis grisescens*), Indiana bat (*Myotis sodalis*), northern long-eared bat (*Myotis septentrionalis*), and tricolored bat (*Perimyotis subflavus*).	Alabama and Tennessee.	Presence/probable absence surveys.	Capture, handle, identify, band, radiotag, and release.	New.
PER5294766–0	Braci Gatlin; Moundville, AL.	Gray bat (*Myotis grisescens*), Indiana bat (*Myotis sodalis*), northern long-eared bat (*Myotis septentrionalis*), and tricolored bat (*Perimyotis subflavus*).	Alabama, Georgia, Mississippi, and Tennessee.	Presence/probable absence surveys.	Capture, handle, identify, band, radiotag, and release.	New.

Permit application No.	Applicant	Species	Location	Activity	Type of take	Permit action
ES62026D–3 ...	Catherine Haase, Austin Peay State University; Clarksville, TN.	Tricolored bat (*Perimyotis subflavus*)	Kentucky and Tennessee.	Assess bat community structure and habitat use.	Capture, handle, identify, band, radio-tag, and release.	Amendment.
ES02332D–4 ...	Michelle Gilley; Mars Hill, NC.	Gray bat (*Myotis grisescens*), Indiana bat (*Myotis sodalis*), northern long-eared bat (*Myotis septentrionalis*), tricolored bat (*Perimyotis subflavus*), Virginia big-eared bat (*Corynorhinus* (=*Plecotus*) *townsendii virginianus*), and Carolina northern flying squirrel (*Glaucomys sabrinus coloratus*).	Bats: Alabama, Arkansas, Connecticut, Delaware, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, and Wyoming; Carolina northern flying squirrel: North Carolina, Tennessee, and Virginia.	Bats: Presence/probable absence surveys, studies to document habitat use, and population monitoring; Carolina northern flying squirrel: Presence/probable absence surveys and studies of home ranges, foraging behaviors, and roost tree preferences.	Bats: Capture, handle, identify, band, radio-tag, and release; Carolina northern flying squirrel: Capture, handle, identify, radio-tag, and release.	Renewal and amendment.
PER5521520–0	Sara Jeanine McLaughlin-Johnson; Kingsport, TN.	Gray bat (*Myotis grisescens*), Indiana bat (*Myotis sodalis*), northern long-eared bat (*Myotis septentrionalis*), and tricolored bat (*Perimyotis subflavus*).	Alabama, Georgia, Kentucky, Mississippi, North Carolina, Tennessee, and Virginia.	Presence/probable absence surveys.	Enter hibernacula and maternity roost caves, capture, handle, identify, band, radio tag, and release.	New.
PER0037840–1	Cara Rogers; Ypsilanti, MI.	Gray bat (*Myotis grisescens*), Indiana bat (*Myotis sodalis*), and tricolored bat (*Perimyotis subflavus*).	Alabama, Arkansas, Colorado, Connecticut, Delaware, District of Columbia, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, Wisconsin, West Virginia, and Wyoming.	Presence/probable absence surveys.	Capture with mist nets, handle, identify, band, radio-tag, and release.	Amendment.
ES77472C–1 ...	Streamtechs, LLC; Athens, GA.	Amber darter (*Percina antesella*), blue shiner (*Cyprinella caerulea*), Cherokee darter (*Etheostoma scotti*), Conasauga logperch (*Percina jenkinsi*), Etowah darter (*Etheostoma etowahae*), and goldline darter (*Percina aurolineata*).	Georgia	Presence/probable absence surveys.	Capture, identify, and release.	Renewal.

Permit application No.	Applicant	Species	Location	Activity	Type of take	Permit action
PER5971699–0	Theresa Wetzel; Lexington, KY.	Gray bat (*Myotis grisescens*), Indiana bat (*Myotis sodalis*), northern long-eared bat (*Myotis septentrionalis*), Ozark big-eared bat (*Corynorhinus* (=*Plecotus*) *townsendii ingens*), tricolored bat (*Perimyotis subflavus*), and Virginia big-eared bat (*Corynorhinus* (=*Plecotus*) *townsendii virginianus*).	Alabama, Arkansas, Colorado, Connecticut, Delaware, District of Columbia, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, Wisconsin, West Virginia, and Wyoming.	Presence/probable absence surveys.	Enter hibernacula and maternity roost caves; capture, handle, identify, band, radio-tag, collect tissue samples, and release.	New.
ES97308A–2 ...	John Harris; Scott, AR.	Arkansas fatmucket (*Lampsilis powellii*), Curtis pearlymussel (*Epioblasma florentina curtisii*), fanshell (*Cyprogenia stegaria*), fat pocketbook (*Potamilus capax*), Higgins eye (*Lampsilis higginsii*), Louisiana pearlshell (*Margaritifera hembeli*), Louisiana pigtoe (*Pleurobema riddellii*), Neosho mucket (*Lampsilis rafinesqueana*), Ouachita fanshell (*Cyprogenia sp. cf aberti*), Ouachita rock pocketbook (*Arcidens wheeleri*), pink mucket (*Lampsilis abrupta*), rabbitsfoot (*Quadrula cylindrica cylindrica*), ring pink (*Obovaria retusa*), rough pigtoe (*Pleurobema plenum*), salamander mussel (*Simpsonaias ambigua*), scaleshell (*Leptodea leptodon*), sheepnose (*Plethobasus cyphyus*), snuffbox (*Epioblasma triquetra*), speckled pocketbook (*Lampsilis streckeri*), spectaclecase (*Cumberlandia monodonta*), western fanshell (*Cyprogenia aberti*), and winged mapleleaf (*Quadrula fragosa*).	Alabama, Arkansas, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New York, Ohio, Oklahoma, Pennsylvania, South Dakota, Tennessee, Texas, Virginia, West Virginia, Wisconsin.	Presence/probable absence surveys, population estimate surveys, and DNA sampling.	Capture, collect tissue swabs, release, and salvage relic shells.	Renewal and amendment.
ES81202C–1 ...	Michael Maltba; Whitesburg, KY.	Gray bat (*Myotis grisescens*), Indiana bat (*Myotis sodalis*), northern long-eared bat (*Myotis septentrionalis*), and tricolored bat (*Perimyotis subflavus*).	Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New, Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, and Wyoming.	Enter hibernacula and maternity roost caves, capture, handle, band, radio tag, collect hair samples, wing punch, and light tag.	Presence/probable absence surveys and studies to document habitat use.	Renewal and amendment.

Public Availability of Comments

Written comments we receive become part of the administrative record associated with this action. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your

personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

Next Steps

After the comment period closes, we will make decisions regarding permit issuance. If we issue permits to any of the applicants listed above in this notice, we will publish a subsequent notice in the **Federal Register**. You may locate the notice announcing the permit issuance by searching *https://www.regulations.gov* for the application number listed above in this document. Type in your search exactly as the application number appears above, with spaces and hyphens as necessary. For example, to find information about the potential issuance of Permit No. PER 1234567–0, you would go to *https://www.regulations.gov* and put ''PER 1234567–0'' in the Search field.

Authority

We publish this notice under section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Lawrence Williams,

Acting Deputy Assistant Regional Director, Ecological Services, Southeast Region.

[FR Doc. 2024–05708 Filed 3–15–24; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[BLML_NV_FRN_MO4500177289]

Notice of Intent To Prepare an Environmental Impact Statement for the Proposed Spring Valley Mine Project, Pershing County, Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent.

SUMMARY: In compliance with the National Environmental Policy Act of 1969, as amended (NEPA), and the Federal Land Policy and Management Act of 1976, as amended, the Bureau of Land Management (BLM) Humboldt River Field Office in Winnemucca, Nevada, intends to prepare an Environmental Impact Statement (EIS) to consider the effects of Solidus LLC's (Solidus) Spring Valley Mine Project (Project) in Pershing County, Nevada. By this notice, the BLM is announcing the beginning of the scoping process to solicit public comments and identify issues.

DATES: This notice initiates the public scoping process for the EIS. The BLM requests that the public submit comments concerning the scope of the analysis, potential alternatives, and identification of relevant information and studies no later than 30 days after the date of publication in the **Federal Register**. To afford the BLM the opportunity to consider comments in the Draft EIS, please ensure your comments are received prior to the close of the 30-day scoping period or 15 days after the last public meeting, whichever is later. Two in-person public scoping meetings will be held during the public scoping period, the dates of which are to be determined.

ADDRESSES: You may submit comments related to the Spring Valley Mine Project by any of the following methods:

- *Website: https://eplanning.blm.gov/eplanning-ui/project/2030469/510.*
- *Email: blm_nv_wdo_spring_valley_gold_mine@blm.gov.*
- *Mail:* BLM Humboldt River Field Office, Attn: Spring Valley Mine Project, 5100 East Winnemucca Blvd., Winnemucca, Nevada 89445.

Documents pertinent to this proposal may be examined online at *https://eplanning.blm.gov/eplanning-ui/home* and at the Humboldt River Field Office.

FOR FURTHER INFORMATION CONTACT: Robert Sevon, Project Manager, address: 5100 East Winnemucca Blvd., Winnemucca, Nevada 89445; email: *blm_nv_wdo_spring_valley_gold_mine@blm.gov.* Contact Mr. Sevon to have your name added to our mailing list. 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 for contacting Mr. Robert Sevon, Project Manager. 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: Based on the submitted proposed plan of operations (Plan), Solidus is proposing to construct, operate, close, and reclaim a new surface mine within Buena Vista Valley along the eastern part of the Humboldt Range, approximately 20 miles northeast of Lovelock, Nevada, and 70 miles southwest of Winnemucca, Nevada.

The proposed Spring Valley Mine Plan boundary would encompass 14,623 acres. The total disturbance associated with the proposed action, including exploration and the new mine operation, would be 6,232 acres, with 4,123 acres on land administered by the BLM and 2,109 acres on private land. The proposed surface mining activities for the Spring Valley Mine would include:

- One open pit and associated haul roads;
- Three waste rock facilities;
- A heap leach facility including a lined pad, process solution ponds, and carbon processing and refining facilities;
- Ancillary facilities including pit dewatering facilities with a rapid infiltration basin system; crushing circuit and an ore stockpile; secondary roads; stormwater controls and diversions; a mine fleet shop; explosives storage; truck shop and refueling area; mine offices and parking areas; laydown yards and storage areas; an aggregate plant; power distribution; a used-materials pad; freshwater distribution; potable water, fire water, and sewage systems; communications facilities; fuel storage and distribution facilities; monitoring wells; water pipelines; wildlife and range fencing; growth media stockpiles; and livestock water developments.
- Exploration activities of up to 50 acres would occur anywhere within the proposed Plan boundary.

Two plans of development (PODs) have been submitted by NV Energy and the Pershing County Road Department (Pershing County) to support the Plan. The Pershing County POD proposes to modify the existing Spring Valley Road with removal of a portion of the road, realignment around the proposed mining operation, and improvement of portions of the existing road. The NV Energy POD proposes to realign portions of two 345 kilovolt (kV) transmission lines and to construct a new 120-kV transmission line. Combined, these two PODs would disturb an additional 164 acres, with 102 acres on land administered by the BLM and 62 acres on private land.

As proposed, the Project would employ a contractor workforce of approximately 130 employees during the initial two-year construction period and approximately 250 full-time employees for the operations period. The Project would operate 24 hours per day, 365 days per year. The total life of the Project would be 29 years, including 2 years of construction, 11 years of mining, 3 additional years of ore processing, and 13 years of reclamation and closure activities. Reclamation of

disturbed areas resulting from mining operations would be completed in accordance with BLM and Nevada Division of Environmental Protection regulations. Concurrent reclamation would take place where practicable and safe.

Purpose and Need for the Proposed Action

The BLM's purpose is to respond to Solidus's proposal as described in the Plan and two associated PODs and to analyze the environmental effects associated with the proposed action and alternatives. NEPA mandates that the BLM evaluate the effects of the proposed action and develop alternatives.

The BLM's need for the action is established by the BLM's responsibilities, under section 302 of the Federal Land Policy and Management Act and the BLM Surface Management Regulations at 43 CFR 3809, to respond to a Plan submitted by an applicant to exercise their rights under the General Mining Law of 1872, and to prevent unnecessary or undue degradation of public lands as a result of the actions taken to prospect, explore, assess, develop, and process locatable minerals resources on public lands.

Preliminary Proposed Action and Alternatives

The proposed action consists of the Plan as submitted by Solidus and the associated PODs as submitted by Pershing County and NV Energy. Additional identified alternatives to be considered at this time include the No Action Alternative.

Under the No Action Alternative, the development of the Spring Valley Mine Plan and associated ROWs would not be authorized and Solidus would not construct, operate, and close a new surface mine. Solidus would continue its current authorized Spring Valley Exploration Project.

The BLM welcomes comments on all preliminary alternatives as well as suggestions for additional alternatives.

Summary of Expected Impacts

Primary impacts from the Spring Valley Mine Project that will be analyzed in the EIS include potential impacts to surface and groundwater resources (water quality and quantity); aesthetics (visual and noise); air quality, including greenhouse gases and climate change; cultural resources and historic properties; wildlife resources, including special status species; vegetation and soil resources; livestock grazing; and traffic generation. A summary of potential impacts include:

- *Cultural Resource Concerns:* Up to 20 National Register of Historic Places-eligible or unevaluated cultural properties could be physically altered, resulting in adverse impacts effect to these cultural sites.
- *Wildlife Resources:* Potential impacts include habitat change, habitat loss, alterations to water sources, fatalities as a result of collisions with vehicles, displacement due to human activity, and disturbance.
- *BLM Sensitive Species:* For greater sage-grouse, the proposed action could remove a total of 2,538 acres of mapped habitat, including 1,360 acres of General Habitat Management Areas, and 1,178 acres of Other Habitat Management Areas habitat. For golden eagles, the proposed action could result in the removal of approximately 6,328 acres of foraging habitat. Additionally, two golden eagle territories occur within one mile of the proposed Project disturbance and blasting area.
- *Visual Aesthetics:* Potential impacts to visual resources include the addition of form, line, texture, and color to the existing landscape.
- *Air Quality:* Air quality modeling has determined that impacts from the proposed action would not exceed National Ambient Air Quality Standards for PM_{10}, $PM_{2.5}$, CO, NO_X, and SO_2. Total facility-wide Hazardous Air Pollutants (HAPs) are estimated to be 0.76 tons per year (tpy), with 0.12 tpy of the highest single HAP, Cobalt. The facility-wide HAP emissions are within U.S. Environmental Protection Agency thresholds. Greenhouse gas emissions from operations, including off-site ore transport, are estimated to be 0.13 million metric tons CO_2eq per year. Mercury emissions are estimated to be 0.017 tons per year.
- *Water Resources (Surface and Groundwater):* Potential impacts to surface and groundwater resources. Potential impacts to seep, spring, and stream flow may occur from proposed dewatering operations. Dewatering operations would also result in a lowering of the local groundwater table, and a permanent pit lake would form post-mining in the open pit. Sedimentation and erosion may also occur due to Project-related disturbance.
- *Traffic:* Traffic on transportation routes within the area of analysis could potentially increase by up to 117 Annual Average Daily Traffic (AADT) during construction, 107 AADT during operations, and 20 AADT during closure. The addition of Project traffic is not anticipated to lower the level of service of the roadways and intersections.
- *Livestock Grazing:* The proposed action could result in new surface disturbance of 6,396 acres, which would impact forage utilized by livestock. Approximately 313 Animal Unit Months would be impacted in the Coal Canyon-Poker, Rawhide, and Star Peak Allotments, and two stock water rights would be impacted.
- *Vegetation and Soils:* Potential impacts on vegetation communities and soil productivity. The proposed action would result in disturbance to soil and removal of vegetation on 6,396 acres.
- *Environmental Justice:* Communities may benefit from additional high paying jobs; however, the proposed action may reduce available affordable housing.

Anticipated Permits and Authorizations

- Plan of Operations/Record of Decision—Bureau of Land Management
- Plans of Development/Record of Decision—Bureau of Land Management
- Golden Eagle Take Permit—United States Fish and Wildlife Service
- Air Quality Operating Permit—Nevada Division of Environmental Protection (Bureau of Air Pollution Control)
- Explosives Permit—United States Bureau of Alcohol, Tobacco, Firearms, and Explosives
- Industrial Artificial Pond Permit—Nevada Department of Wildlife (Habitat Division)
- Jurisdictional Delineation Report Concurrence—United States Army Corps of Engineers
- Liquefied Petroleum Gas License—Nevada Board of the Regulation of Liquefied Petroleum Gas
- Notification of Commencement of Operations—Mine Safety and Health Administration
- Permit to Appropriate Water—Nevada Division of Water Resources
- Registration Form Submittal—Division of Minerals
- Potable Water System Permit—Nevada Bureau of Safe Drinking Water
- Reclamation Permit and Reclamation Cost Determination—Nevada Division of Environmental Protection (Bureau of Mining Regulation and Reclamation)
- Septic Treatment Permit, Holding Tank Permit, Sewage Disposal System Permit—Nevada Division of Environmental Protection (Bureau of Water Pollution Control)
- Water Pollution Control Permit—Nevada Division of Environmental Protection (Bureau of Mining Regulation and Reclamation)

Schedule for the Decision-Making Process

The BLM will provide additional opportunities for public participation consistent with the NEPA process, including a 45-day comment period on the Draft EIS. The Draft EIS is anticipated to be available for public review Summer 2024 and the Final EIS is anticipated to be released Winter 2025 with a Record of Decision in Winter 2025.

Public Scoping Process

This notice of intent initiates the scoping period. The BLM will be holding two in-person public scoping meetings. The specific date(s) and location(s) of these scoping meetings will be announced in advance through local newspaper publications and the Bureau of Land Management National NEPA Register project page at *https://eplanning.blm.gov/eplanning-ui/home.*

Lead and Cooperating Agencies

The BLM Humboldt River Field Office is serving as the lead federal agency for preparing this EIS. The United States Fish and Wildlife Service, Nevada Department of Wildlife, the Nevada Department of Conservation and Natural Resources Sagebrush Ecosystem Technical Team, and United States Environmental Protection Agency are cooperating agencies for the Project.

Responsible Official

Sam Burton, District Manager, Winnemucca District Office

John Mitchell, Field Manager, Humboldt Field Office

Nature of Decision To Be Made

The BLM's decision relative to the EIS that will be prepared for the Spring Valley Mine Project will consider the following: (1) approval of the proposed Project Plan and associated PODs to authorize the proposed activities without modifications or additional mitigation measures; (2) approval of the proposed Project Plan and associated PODs with additional mitigation measures that the BLM deems necessary to prevent unnecessary or undue degradation of public lands; (3) approval of the Spring Valley Mine Project Plan of Operations and associated PODs with one of the alternatives analyzed in the EIS; or (4) denial of the proposed Project Plan and associated PODs if the BLM determines that the proposal does not comply with 43 CFR 3809 regulations and 43 CFR 2800 regulations.

Additional Information

The BLM will identify, analyze, and consider mitigation to address the reasonably foreseeable impacts to resources from the proposed action and all analyzed reasonable alternatives and, in accordance with 40 CFR 1502.14(e), include appropriate mitigation measures not already included in the proposed action or alternatives. Mitigation may include avoidance, minimization, rectification, reduction or elimination over time, and compensation; and it may be considered at multiple scales, including the landscape scale.

The BLM will utilize and coordinate the NEPA process to help support compliance with applicable procedural requirements under the Endangered Species Act (16 U.S.C. 1536) and section 106 of the National Historic Preservation Act (54 U.S.C. 306108), as provided in 36 CFR 800.2(d)(3), including public involvement requirements of section 106. The information about historic and cultural resources and threatened and endangered species within the area potentially affected by the proposed project will assist the BLM in identifying and evaluating impacts to such resources.

The BLM will consult with Indian Tribal Nations on a government-to-government basis in accordance with Executive Order 13175, BLM Manual section 1780, and other Departmental policies. Tribal concerns, including impacts on Indian trust assets and potential impacts to cultural resources, will be given due consideration. Federal, State, and local agencies, along with Indian Tribal Nations and other stakeholders that may be interested in or affected by the proposed Spring Valley Mine Project that the BLM is evaluating, are invited to participate in the scoping process and, if eligible, may request or be requested by the BLM to participate in the development of the environmental analysis as a cooperating agency.

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: 40 CFR 1501.9)

Amber LeLoup,

Acting District Manager, Winnemucca District Office.

[FR Doc. 2024–05702 Filed 3–15–24; 8:45 am]

BILLING CODE 4331–21–P

DEPARTMENT OF THE INTERIOR

Bureau Of Land Management

[BLM_AK_FRN_MO4500178572]

Filing of Plats of Survey: Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of official filing.

SUMMARY: The plats of survey of lands described in this notice are scheduled to be officially filed in the Bureau of Land Management (BLM), Alaska State Office, Anchorage, Alaska. The surveys, which were executed at the request of the Bureau of Indian Affairs, U.S. Fish and Wildlife Service, and BLM, are necessary for the management of these lands.

DATES: The BLM must receive protests by April 17, 2024.

ADDRESSES: You may buy a copy of the plats from the BLM Alaska Public Information Center, 222 W 7th Avenue, Mailstop 13, Anchorage, AK 99513. Please use this address when filing written protests. You may also view the plats at the BLM Alaska Public Information Center, Fitzgerald Federal Building, 222 W 7th Avenue, Anchorage, Alaska, at no cost.

FOR FURTHER INFORMATION CONTACT: Thomas B. O'Toole, Chief, Branch of Cadastral Survey, Alaska State Office, Bureau of Land Management, 222 W 7th Avenue, Anchorage, AK 99513; 907–271–4231; *totoole@blm.gov.* People who use a telecommunications device for the deaf may call the Federal Relay Service (FRS) at 1–800–877–8339 to contact the BLM 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: The lands surveyed are:

Copper River Meridian, Alaska

U.S. Survey No. 963, accepted March 11, 2024, situated in Tp. 56 S., R. 72 E.

U.S. Survey No. 1735, accepted February 23, 2024, situated in Tp. 43 S., R. 61 E.

U.S. Survey No. 2128, accepted March 11, 2024, situated in Tp. 43 S., R. 61 E.

U.S. Survey No. 14616, accepted February 20, 2024, situated in Tp. 52 S., R. 68 E.,

and Tp. 52 S., R. 69 E.
U.S. Survey No. 14617, accepted February 20, 2024, situated in Tp. 52 S., R. 69 E.
U.S. Survey No. 14618, accepted February 20, 2024, situated in Tp. 52 S., R. 69 E.

Seward Meridian, Alaska

T. 30 S., R. 30 W., accepted February 20, 2024.
T. 14 S., R. 60 W., accepted March 8, 2024.

A person or party who wishes to protest one or more plats of survey identified above must file a written notice of protest with the State Director for the BLM in Alaska. The protest may be filed by mailing to BLM State Director, Alaska State Office, Bureau of Land Management, 222 W 7th Avenue, Anchorage, AK 99513 or by delivering it in person to BLM Alaska Public Information Center, Fitzgerald Federal Building, 222 W 7th Avenue, Anchorage, Alaska. The notice of protest must identify the plat(s) of survey that the person or party wishes to protest. You must file the notice of protest before the scheduled date of official filing for the plat(s) of survey being protested. The BLM will not consider any notice of protest filed after the scheduled date of official filing. A notice of protest is considered filed on the date it is received by the State Director for the BLM in Alaska during regular business hours; if received after regular business hours, a notice of protest will be considered filed the next business day. A written statement of reasons in support of a protest, if not filed with the notice of protest, must be filed with the State Director for the BLM in Alaska within 30 calendar days after the notice of protest is filed.

If a notice of protest against a plat of survey is received prior to the scheduled date of official filing, the official filing of the plat of survey identified in the notice of protest will be stayed pending consideration of the protest. A plat of survey will not be officially filed until the dismissal or resolution of all protests of the plat.

Before including your address, phone number, email address, or other personally identifiable information in a notice of protest or statement of reasons, you should be aware that the documents you submit, including your personally identifiable information, may be made publicly available in their entirety at any time. While you can ask the BLM to withhold your personally identifiable information from public review, we cannot guarantee that we will be able to do so.

Authority: 43 U.S.C. Chap. 3.

Thomas B. O'Toole

Chief Cadastral Surveyor, Alaska.

[FR Doc. 2024–05670 Filed 3–15–24; 8:45 am]

BILLING CODE 4331–10–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[BLM_OR_FRN_MO4500177683]

Notice of Intent To Prepare an Environmental Impact Statement for the Proposed Grassy Mountain Mine Project, Malheur County, Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent.

SUMMARY: In compliance with the National Environmental Policy Act of 1969, as amended (NEPA), and the Federal Land Policy and Management Act of 1976, as amended (FLPMA), the Bureau of Land Management (BLM) Vale District Office, Vale, Oregon, intends to prepare an environmental impact statement (EIS) to consider the effects of Calico Resources USA's (proponent) proposal to construct, operate, reclaim, and close an underground mining and precious metal milling operation known as the Grassy Mountain Mine Project. By this notice, the BLM announces the beginning of the scoping process to solicit public comments and identify issues.

DATES: This notice initiates the public scoping process for the EIS. The BLM requests that the public submit comments concerning the scope of the analysis, potential alternatives, and identification of relevant information and studies by April 17, 2024. To afford the BLM the opportunity to consider comments in the Draft EIS, please ensure your comments are received prior to the close of the 30-day scoping period or 15 days after the last public meeting, whichever is later.

ADDRESSES: You may submit comments related to the Grassy Mountain Mine Project by any of the following methods:

- *Website: https://eplanning.blm.gov/eplanning-ui/project/2030186/510.*
- *Email: blm_or_vl_grassymtn@blm.gov.*
- *Fax:* 541–473–6213.
- *Mail:* Vale BLM District Office, 100 Oregon Street, Vale, OR 97918.

Documents pertinent to this proposal may be examined online at *https://eplanning.blm.gov/eplanning-ui/project/2030186/510* and at the Vale BLM District Office, 100 Oregon Street, Vale, OR 97918.

FOR FURTHER INFORMATION CONTACT: Daniel Pike, Geologist; 541–473–6369, 100 Oregon Street, Vale, OR 97918; *jpike@blm.gov.* Contact Daniel Pike to have your name added to our mailing list. 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 for contacting Daniel Pike. 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 proponent requests BLM approval to construct, operate, reclaim, and close an underground mining and precious metal milling operation, including associated structures and facilities, known as the Grassy Mountain Mine Project.

In addition to approval of the mine plan of operations, the proponent also seeks BLM's concurrence for occupancy incident to the mining operations and a right-of-way (ROW) grant, parallel to the access road, for a transmission line to provide electricity for facilities and operations at the mine.

Purpose and Need for Federal Action

The BLM is responsible for administering mineral rights access on certain federal lands as authorized by the General Mining Law of 1872. Under the law, qualified prospectors are entitled to reasonable access to mineral deposits on public domain lands that have not been withdrawn from mineral entry. To use public lands managed by the BLM for locatable mineral exploration and development, persons must comply with FLPMA and the BLM's implementing regulations governing surface management, occupancy, and, where appropriate, ROW grants across public lands, at title 43 of the Code of Federal Regulations (CFR), parts 3809, 3715, and 2800, respectively, as well as other applicable statutes and regulations. The purpose of this Federal action is to analyze the environmental effects associated with approving, denying, or conditionally approving the proposed action. The need for Federal action is established by the BLM's responsibilities under FLPMA and its implementing regulations to respond to the proponent's request for approval of a plan of operations for the proponent to exercise its rights under the General Mining Law of 1872, as well as the proponent's related proposal to occupy BLM-administered lands more than the 14 calendar days within a 90-day period

at a single location (43 CFR subpart 3715) and its application for a transmission line ROW across BLM-administered public lands.

Preliminary Proposed Action and Alternatives

The proponent's proposed action is to construct, operate, reclaim, and close an underground mining and precious metal milling operation, including associated structures and facilities. The project would be located in Malheur County, Oregon, approximately 22 miles south-southwest of Vale, Oregon, in Sections 5, 6, 7, and 8, Township 22S, Range 44E, Willamette Base & Meridian. The project would consist of a mine and process plant area and a project access area. Access to the mine would be along an existing road, though road improvements would need to be made to accommodate large mining vehicles. The proponent proposes to mine approximately 2.07 million tons of mill-grade ore and 0.27 million tons of waste rock for a mine operation of approximately 8 years. The project would result in approximately 487.9 acres of proposed surface disturbance on 18.9 acres of private land and 469 acres of public land. The project would include the following major components:

- One underground mine;
- One waste rock storage area;
- One carbon-in-leach processing plant;
- Three borrow pit areas;
- One tailings storage facility;
- Run-of-mine ore stockpile;
- One reclaim pond;
- A water supply well field and pipeline, associated water delivery pipelines, and power;
- A power substation and distribution system;
- Access and haul roads;
- Ancillary facilities that include the following: haul, secondary, and exploration roads; truck workshop; warehouse; storm water diversions; sediment control basins; reagent and fuel storage; storage and laydown yards; explosive magazines; freshwater storage; monitoring wells; meteorological station; administration/security building; borrow areas; landfill; growth media stockpiles; and solid and hazardous waste management facilities to manage wastes; and
- Reclamation and closure, including the development of an evaporation cell for potential long-term discharge from the tailings storage facility.

The main access area is in portions of Section 5, T22S, R44E; Sections 3, 10, 11, 14, 15, 21, 22, 23, 28, 29, and 32, T21S, R44E; Sections 1, 12, 13, 14, 23, 26, 27, and 34, T20S, R44E; Sections 6 and 7, T20S, R45E; and Sections 22, 23, 26, 35, and 36, T19S, R44E. The access road and its analysis corridor cover 876 acres. In addition to approval of the mine plan of operations, the proponent also seeks BLM's concurrence for occupancy incident to the mining operations and a ROW grant, parallel to the access road, for a transmission line to provide electricity for facilities and operations at the mine.

At present, there are two alternatives that will be considered. Under the No Action alternative, the BLM would disapprove the plan of operations, issue a determination of non-concurrence for occupancy, and deny the application for a ROW grant for a transmission line. The proponent, with permits from the Oregon Department of Geology and Mineral Industries, could conduct mining operations on their privately held parcels of land. The facilities that they propose building on BLM-administered lands would not be constructed, and current land use would continue, including grazing and notice level work by the proponent on BLM-administered land where it has valid mining claims. This notice level work would be limited to five acres of ground disturbance, and the proponent would be required to reclaim these acres once the notice level activity is completed.

The action, as proposed by the proponent, will be considered in the EIS. If the proposed action would cause unnecessary or undue degradation, the BLM will consider an alternative with mitigation measures necessary to prevent unnecessary or undue degradation. Other alternatives may be identified after scoping has been completed and the alternatives/issues meeting with the interdisciplinary team takes place. The proponent has prepared an alternatives analysis for the state agencies, which has been provided to the BLM. The BLM welcomes comments on these preliminary alternatives as well as suggestions for additional alternatives.

Summary of Expected Impacts

Anticipated impacts from the proposed project include up to 487.9 acres of proposed surface disturbance on 18.9 acres of private land and 469 acres of public land for development of the major components described above. Potential impacts may include vegetation removal; recreation and access changes; wildlife impacts including habitat loss; impacts to cultural resources and other impacts of concern to Native Americans; and socioeconomic impacts. Known resources to be addressed in the analysis include, but are not limited to, water quality and quantity; Native American religious concerns; environmental justice; socioeconomics; mining and minerals; recreation; grazing/rangelands; cultural resources; wildlife; soils; and invasive species. Impact analysis will also consider the cumulative impacts to natural and cultural resources from reasonably foreseeable future projects in the area.

Schedule for the Decision-Making Process

The BLM will provide additional opportunities for public participation consistent with the NEPA process, including a 45-day comment period on the Draft EIS. The Draft EIS is anticipated to be available for public review in February 2025, and the Final EIS is anticipated to be released in August 2025 with a Record of Decision in November 2025.

Anticipated Permits and Authorizations

If approved, the BLM would authorize the ground disturbance and occupancy as proposed in the plan of operations, as well as determine a financial guarantee to account for reclamation responsibilities. Other Federal, State, and local authorizations will be required for the project. These could include authorizations under the Clean Water Act, 14 CFR part 77, and other State laws and regulations determined to be applicable to the project.

Public Scoping Process

The BLM will hold two public scoping meetings in the following locations:

- Lions Club Hall, Jordan Valley, OR
- Senior Citizens Center, Vale, OR

The event to be held in Vale, OR, will be livestreamed and participants can attend virtually. The specific dates of these scoping meetings will be announced in advance through a news release in local newspapers, the BLM website (see **ADDRESSES**), and the project's ePlanning page (see **ADDRESSES**).

Lead and Cooperating Agencies

The BLM is the lead agency for this EIS. The United States Environmental Protection Agency, Malheur County, and the Oregon Department of Geology and Mineral Industries have accepted cooperating agency status.

Responsible Official

As authorized by the BLM Manual 1203—Delegation of Authority, the Vale District Manager is delegated the authority to make the final decision on the EIS for a mining plan of operations,

occupancy determination, and ROW grant.

Nature of Decision To Be Made

The Authorized Officer will consider alternatives analyzed through the NEPA process, including an alternative to not authorize the project and the proponent's proposed mine plan of operations. The Authorized Officer will select an alternative and consider whether that action will be authorized, what mitigation to avoid or reduce resource effects will be necessary, and whether an amendment to the existing Southeastern Oregon Resource Management Plan (2002, as amended) will be necessary. If an amendment is necessary, the BLM would propose a plan amendment concurrently with the final decision on the project.

Additional Information

The BLM will identify, analyze, and consider mitigation to address reasonably foreseeable effects to resources from the Proposed Action and all analyzed reasonable alternatives, and in accordance with 40 CFR 1502.14(e), including appropriate mitigation measures not already included in the proposed action. Mitigation may include avoidance, minimization, rectification, reduction or elimination over time, and compensation, and may be considered at multiple scales, including the landscape scale.

The BLM will utilize and coordinate the NEPA process to help support compliance with applicable procedural requirements under the Endangered Species Act (16 U.S.C. 1536) and section 106 of the National Historic Preservation Act as provided in 36 CFR 800.2(d)(3), including public involvement requirements. The information about historic and cultural resources and threatened and endangered species within the area potentially affected by the proposed action will assist the BLM in identifying, evaluating, and where appropriate, mitigating effects to such resources.

The BLM will consult with Indian Tribal Nations on a government-to-government basis in accordance with Executive Order 13175, BLM Manual Section 1780, and other departmental policies. Tribal concerns, including effects on Indian trust assets and potential effects to cultural resources, will be given due consideration. Federal, state, and local agencies, along with Indian Tribal Nations and other stakeholders that may be interested in or affected by the proposed action that the BLM is evaluating, are invited to participate in the scoping process, and if eligible, may request or be requested by the BLM to participate in the development of the environmental analysis as a cooperating agency.

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: 40 CFR 1501.9).

Shane DeForest,

Vale District Manager.

[FR Doc. 2024–05719 Filed 3–15–24; 8:45 am]

BILLING CODE 4331–24–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[BLM_WY_FRN_MO4500177404]

Notice of Intent To Prepare an Environmental Impact Statement for the Proposed Jackalope Wind Energy Project, Sweetwater County, Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent.

SUMMARY: In compliance with the National Environmental Policy Act of 1969, as amended (NEPA), and the Federal Land Policy and Management Act of 1976, as amended (FLPMA), the Bureau of Land Management (BLM) Rock Springs Field Office, Sweetwater County, Wyoming intends to prepare an Environmental Impact Statement (EIS) to consider the effects of the proposed Jackalope Wind Energy Project and by this notice is announcing the beginning of the scoping process to solicit public comments and identify issues.

DATES: This notice initiates the public scoping process for the EIS. The BLM requests that the public submit comments concerning the scope of the analysis, potential alternatives, and identification of relevant information and studies by 30 days after the date of publication of this notice in the **Federal Register**. To afford the BLM the opportunity to consider comments in the Draft EIS, please ensure your comments are received prior to the close of the 30-day scoping period or 15 days after the last public meeting, whichever is later.

ADDRESSES: You may submit comments related to the Jackalope Wind Energy Project by any of the following methods:

- *Website: https://eplanning.blm.gov/eplanning-ui/project/2026735/510.*
- *Mail:* BLM Rock Springs Field Office, Attn: Jackalope Wind Energy Project Team, 280 Highway 191 North, Rock Springs, WY 82901–3447.

Documents pertinent to this proposal may be examined online at *https://eplanning.blm.gov/eplanning-ui/project/2026735/510* and at the BLM Rock Springs Field Office.

FOR FURTHER INFORMATION CONTACT: Kimberlee Foster, the BLM Rock Springs Field Office Manager, telephone (307) 352–0201; address 280 US–191 N, Rock Springs, WY 82901; email *kfoster@blm.gov.* Contact Ms. Foster to have your name added to our mailing list. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or Tele Braille) to access telecommunications relay services for contacting Ms. Foster. 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: Jackalope Wind, LLC, a wholly owned indirect subsidiary of NextEra Energy Resources, LLC, is proposing to develop the Jackalope Wind Energy Project, a commercial wind energy project in Sweetwater County, Wyoming, on lands managed by the BLM, the Wyoming Office of State Lands and Investment, and private landowners. The proposed project includes approximately 213 wind turbine generators and associated infrastructure to deliver approximately 600 megawatts (MW) of electricity to the transmission grid. The point of interconnection would be the Jim Bridger Substation, which is located adjacent to the Jim Bridger Power Plant near Point of Rocks, Wyoming. The project area encompasses approximately 293,100 acres of land, approximately 166,100 acres of which are public lands managed by the BLM. The majority of the project is located within the BLM Rock Springs Field Office, and a portion of the project is within the Rawlins Field Office. The Rock Springs Field Office will serve as the lead office and will coordinate with the Rawlins Field Office as appropriate during the NEPA process.

Purpose and Need: The BLM's purpose is to respond to Jackalope Wind, LLC application for a right-of-way (ROW) grant to construct, operate, maintain, and decommission a wind

energy facility on public lands in compliance with FLPMA, BLM ROW regulations, and other applicable federal laws and policies. The need for this action arises from FLPMA, which requires the BLM to manage public lands for multiple use and sustained yield and authorizes the BLM to issue ROW grants on public lands for systems of generation, transmission, and distribution of electric energy (FLPMA Title V). The BLM will review the proposed action and other alternatives and decide whether to approve, approve with modifications, or deny Jackalope Wind LLC's application. The BLM's ROW grant for the project would include any terms, conditions, and stipulations it determines to be in the public interest.

Preliminary Proposed Action and Alternatives: Jackalope Wind, LLC, has submitted a plan of development to accompany a Type III ROW grant application to the BLM Rock Springs Field Office. As currently proposed, the project would comprise approximately 213 wind turbine generators and associated infrastructure to deliver approximately 600 MW of electricity to the transmission grid. The project would be constructed in two phases, with each phase totaling approximately 300 MW.

The BLM Rock Springs Field Office has identified the following preliminary considerations for the development of alternatives:

- Input from cooperators and other stakeholders;
- Input from the public scoping process;
- Potential resource concerns;
- Alternative gen-tie line and interconnection options; and
- Alternative turbine layouts.

The BLM welcomes comments on all preliminary alternatives as well as suggestions for additional alternatives.

Summary of Expected Impacts

Preliminary issues, either beneficial or adverse and of varying intensity, for the project have been identified by BLM personnel and in consultation with Federal, State, and local agencies, Tribes, and other Cooperating Agencies. These preliminary issues include:

- Wildlife, including big game;
- Special status wildlife and fish species, including BLM Sensitive Species and Threatened and Endangered Species;
- Cultural resources and historic trails;
- Visual resources;
- Recreation;
- Impacts to surface resources from project-related surface disturbance; and
- Greater Sage-grouse. The State of Wyoming has proposed expansion of the State's Core Area for Sage-grouse in a portion of the project area. This may cause some turbine locations to be relocated within the project area.

The public scoping process will guide the NEPA process in determining relevant issues that will influence the scope of the environmental analysis, including alternatives and mitigation measures. The EIS will identify and describe the effects of the proposed action on the human environment. The BLM also requests the identification of potential impacts that should be analyzed. Impacts should be a result of the action; therefore, please identify the activity along with the potential impact. Information that reviewers have that would assist in the development of alternatives or analysis of resources issues is also helpful.

Anticipated Permits and Authorizations

In addition to the requested right-of-way grant, other Federal, State, and local authorizations will be required for the project. These include authorizations under the Bald and Golden Eagle Act, the Endangered Species Act, Clean Water Act, 14 Code of Federal Regulations part 77, and other laws and regulations determined to be applicable to the project.

Schedule for the Decision-Making Process

The BLM will provide additional opportunities for public participation consistent with the NEPA process, including a 45-day comment period on the Draft EIS. The Draft EIS is anticipated to be available for public review between Winter 2024 and early Spring 2025 and the Final EIS is anticipated to be released in Summer 2025 with a Record of Decision in Summer 2025.

Public Scoping Process

This notice of intent initiates the scoping period.

The BLM will hold two public scoping meetings in the following locations: Rock Springs and Rawlins, WY. The specific date(s) and location(s) of these scoping meetings will be announced in advance through local media, social media and the ePlanning project page (see **ADDRESSES**).

Lead and Cooperating Agencies

The BLM Rock Springs Field Office is the lead office for the NEPA effort. The BLM Rock Spring Field Office has invited the following agencies to participate as cooperating agencies:

Federal: U.S. Bureau of Reclamation, U.S. Department of Energy, U.S. EPA Region 8, U.S. EPA Region 9, U.S. Fish and Wildlife Services, USDA Forest Service, U.S. National Park Service.

State: State of Wyoming Office of Governor Gordan, Office of Senator Cynthia Lummis, Office of Senator John Barrasso, Wyoming County Commissioners Association, WY Department of Agriculture, WY Department of Environmental Quality, WY Game & Fish, WY Geological Survey.

Local: Advisory Council on Historic Preservation, Carbon County, Sweetwater County.

Responsible Official

The BLM Wyoming's High Desert District Manager, Jason Gay, is the responsible official who will make the decisions below.

Nature of Decision To Be Made

The Bureau of Land Management will use the analysis in the EIS to inform the following: whether to grant, grant with conditions, or deny the application for a right-of-way. Pursuant to 43 Code of Federal Regulations (CFR) 2805.10, if the BLM issues a grant, the decision may include terms, conditions, and stipulations determined to be in the public interest.

Additional Information

The BLM will identify, analyze, and consider mitigation to address the reasonably foreseeable impacts to resources from the proposed action and all analyzed reasonable alternatives and, in accordance with 40 CFR 1502.14(e), include appropriate mitigation measures not already included in the proposed action or alternatives. Mitigation may include avoidance, minimization, rectification, reduction or elimination over time, and compensation; and may be considered at multiple scales, including the landscape scale.

The BLM will utilize and coordinate the NEPA process to help support compliance with applicable procedural requirements under the Endangered Species Act (16 U.S.C. 1536) and section 106 of the National Historic Preservation Act (54 U.S.C. 306108) as provided in 36 CFR 800.2(d)(3), including public involvement requirements of Section 106. The information about historic and cultural resources and threatened and endangered species within the area potentially affected by the proposed project will assist the BLM in identifying and evaluating impacts to such resources.

The BLM will consult with Indian Tribal Nations including the Eastern Shoshone Tribe of the Wind River Reservation, Northern Arapaho Tribe, the Ute Indian Tribe of Uintah and Ouray Reservation, Shoshone-Bannock Tribes of the Fort Hall Reservations, and Northern Cheyenne Tribal Council on a government-to-government basis in accordance with Executive Order 13175, BLM Manual Section 1780, and other Departmental policies. Tribal concerns, including impacts on Indian trust assets and potential impacts to cultural resources, will be given due consideration. Federal, State, and local agencies, along with Indian Tribal Nations and other stakeholders that may be interested in or affected by the proposed project that the BLM is evaluating, are invited to participate in the scoping process and, if eligible, may request or be requested by the BLM to participate in the development of the environmental analysis as a cooperating agency.

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: 40 CFR 1501.9)

Andrew S. Archuleta,

State Director.

[FR Doc. 2024–05618 Filed 3–15–24; 8:45 am]

BILLING CODE 4331–26–P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management

[Docket No. BOEM–2024–0008]

Notice of Intent To Prepare an Environmental Impact Statement for the Proposed Atlantic Shores North Project on the U.S. Outer Continental Shelf Offshore New Jersey

AGENCY: Bureau of Ocean Energy Management, Interior.

ACTION: Notice of intent to prepare an environmental impact statement; request for comments.

SUMMARY: The Bureau of Ocean Energy Management (BOEM) announces its intent to prepare an environmental impact statement (EIS) for a construction and operations plan (COP) of a proposed offshore wind energy project submitted by Atlantic Shores Offshore Wind, LLC (Atlantic Shores). This notice of intent (NOI) initiates the public scoping and comment process under the National Environmental Policy Act (NEPA) and under section 106 of the National Historic Preservation Act (NHPA). Atlantic Shores proposes to construct and operate the project in Renewable Energy Lease Area OCS–A 0549 (Lease Area), which is approximately 81,129 acres and located 8.4 statute miles (mi) (7.3 nautical miles) offshore New Jersey and approximately 60 mi offshore New York State. Atlantic Shores proposes to develop the entire Lease Area, known as the Atlantic Shores North Project (the Project).

DATES: Your comments must be received by BOEM on or before May 2, 2024 for timely consideration.

BOEM will hold three in-person and two virtual public scoping meetings for the Atlantic Shores North EIS at the following dates and times (eastern time):

In Person:

- Tuesday, April 9, 2024, 5:00 p.m.–9:00 p.m., The Berkeley Hotel, 1401 Ocean Avenue, Asbury Park, New Jersey 07712
- Wednesday, April 10, 2024, 5:00 p.m.–9:00 p.m., Grand Oaks Country Club, 200 Huguenot Avenue, Staten Island, New York 10312; and
- Thursday, April 11, 2024, 5:00 p.m.–9:00 p.m., Dyker Beach Golf Course, 86th Street and 7th Avenue, Brooklyn, New York 11228;

Virtual:

- Wednesday, April 3, 2024, 1:00 p.m., and
- Tuesday, April 16, 2024, 5:00 p.m.

Registration for the virtual public meetings may be completed here: *https://www.boem.gov/renewable-energy/state-activities/new-jersey/atlantic-shores-north-ocs-0549* or by calling (888) 788–0099 (toll free). Registration for in-person meetings will occur on site. The meetings are open to the public and free to attend.

ADDRESSES: Written comments can be submitted in any of the following ways:

- Delivered by U.S. mail or other delivery service, enclosed in an envelope labeled ''ATLANTIC SHORES North EIS'' and addressed to Kimberly Sullivan, NEPA Coordinator, Environmental Branch for Renewable Energy, Bureau of Ocean Energy Management, 45600 Woodland Road, VAM–OREP, Sterling, Virginia 20166; or
- Through the *regulations.gov* web portal: Navigate to *https://www.regulations.gov* and search for Docket No. BOEM–2024–0008. Select the document in the search results on which you want to comment, click on the ''Comment'' button, and follow the online instructions for submitting your comment. A commenter's checklist is available on the comment web page. Enter your information and comment, then click ''Submit.''

For more information about submitting comments, please see the ''Public Participation'' heading under **SUPPLEMENTARY INFORMATION**.

Detailed information about the proposed Project, including the COP and instructions for making written comments, can be found on BOEM's website at: *https://www.boem.gov/renewable-energy/state-activities/new-jersey/atlantic-shores-north-ocs-0549.*

FOR FURTHER INFORMATION CONTACT: Kimberly Sullivan, Office of Renewable Energy Programs, Bureau of Ocean Energy Management, 45600 Woodland Road, Sterling, Virginia 20166, telephone (702) 338–4766, or email *Kimberly.Sullivan@boem.gov.*

SUPPLEMENTARY INFORMATION:

Purpose of and Need for the Proposed Action

In Executive Order 14008, ''Tackling the Climate Crisis at Home and Abroad,'' issued on January 27, 2021, President Joseph R. Biden stated that the policy of his administration is ''to organize and deploy the full capacity of its agencies to combat the climate crisis to implement a government-wide approach that reduces climate pollution in every sector of the economy; increases resilience to the impacts of climate change; protects public health; conserves our lands, waters, and biodiversity; delivers environmental justice; and spurs well-paying union jobs and economic growth, especially through innovation, commercialization, and deployment of clean energy technologies and infrastructure.''

Through a competitive leasing process conducted under 30 CFR 585.211–585.225, BOEM awarded US Wind, LLC, the Commercial Lease OCS–A 0499, covering an area offshore New Jersey. BOEM approved an assignment of 100 percent interest in the lease to EDF Renewables Development, Inc., in December 2018, and then to Atlantic Shores in August 2019. BOEM approved the segregation of Lease OCS–A 0499 into two separate leases in April 2022. The northern portion of OCS–A 0499 was retained by Atlantic Shores Offshore Wind, LLC and given a new lease number, OCS–A 0549. Lease OCS–A 0499 is commonly referred to as Atlantic Shores South, and Lease OCS–A 0549 is commonly referred to as

Atlantic Shores North. This NOI only addresses activities within and in support of potential development of Lease OCS–A 0549, Atlantic Shores North.

Atlantic Shores has the exclusive right to submit a COP for activities within the Lease Area. Atlantic Shores submitted a COP to BOEM proposing the construction, operation, maintenance, and conceptual decommissioning of an offshore wind energy facility in Lease Area OCS–A–0549, known as the Atlantic Shores North Project, in accordance with BOEM's COP regulations under 30 CFR 585.626, *et seq.*

Atlantic Shores' goal is to develop a commercial-scale offshore wind energy facility in the Lease Area to provide renewable energy to the States of New Jersey and/or New York. Atlantic Shores proposes to construct up to 157 wind turbine generators (WTG) in a 1.1 mil 0.7 mi (1 nm x 0.6 nm) grid distributed across the Lease Area. Up to 8 small, 4 medium, or 3 large offshore substations (OSS) are proposed within identified rows of structures. There may also be one permanent meteorological (met) tower constructed and up to two temporary meteorological and oceanographic (metocean) buoys installed during construction. Together, the WTGs, OSSs, and met tower and metocean buoys consist of up to 168 offshore structures (Proposed Action).

Two offshore export cable corridors (ECC) are proposed to transmit electricity from the lease area to shore. The proposed Monmouth ECC would make landfall in Sea Girt, New Jersey. The proposed Northern ECC may split, making landfall in the New York City area or in the Asbury Park, New Jersey, area. Multiple onshore interconnection cable routes have been identified from the landing sites to five proposed points of interconnection (POIs). The proposed POIs are the Larrabee and Atlantic substations in Monmouth County, New Jersey; Fresh Kills and Goethals substations in Richmond County, New York; and Gowanus substation in Kings County, New York. Atlantic Shores is actively seeking one or more offshore renewable energy credit (OREC) or power purchase agreement (PPA) awards for this project.

Based on BOEM's authority under the Outer Continental Shelf Lands Act (OCSLA) (43 U.S.C. 1331 *et seq.*) to authorize renewable energy activities on the Outer Continental Shelf (OCS), Executive Order 14008, the shared goals of the Federal agencies to deploy 30 gigawatts (GW) of offshore wind in the United States by 2030, while protecting biodiversity and promoting ocean co-use, and in consideration of applicant's goals, the purpose of BOEM's action is to determine whether to approve, approve with modifications, or disapprove Atlantic Shores' COP. BOEM will make its determination after weighing the factors in subsection 8(p)(4) of OCSLA that are applicable to plan decisions and in consideration of the above goals. BOEM's action is needed to fulfill its duties under the lease, which requires BOEM to make a decision on the lessee's plan to construct and operate a commercial-scale, offshore wind energy facility(ies) in the Lease area.

In addition, the National Oceanic and Atmospheric Administration's National Marine Fisheries Service (NMFS) anticipates one or more requests for authorization under the Marine Mammal Protection Act (MMPA) (16 U.S.C. 1361 *et seq.*) to take marine mammals incidental to construction activities related to the Project. NMFS's issuance of an MMPA incidental take authorization would be a major Federal action connected to BOEM's action (40 CFR 1501.9(e)(1)). The purpose of the NMFS action—which is a direct outcome of Atlantic Shores' request for authorization to take marine mammals incidental to specified activities associated with the Project (*e.g.,* pile driving)—is to evaluate Atlantic Shores' request pursuant to specific requirements of the MMPA and its implementing regulations administered by NMFS, considering impacts of the Atlantic Shores North Project's activities on relevant resources and, if appropriate, issue the permit or authorization. NMFS needs to render a decision regarding the request for authorization due to NMFS's responsibilities under the MMPA (16 U.S.C. 1371(a)(5)(A)) and its implementing regulations. If NMFS makes the findings necessary to issue the requested authorization, NMFS intends to adopt, after independent review, BOEM's EIS to support that decision and fulfill its NEPA requirements.

The U.S. Army Corps of Engineers (USACE) Philadelphia District anticipates requests for authorizing a permit action to be undertaken through authority delegated to the district engineer by 33 CFR 325.8, under section 10 of the Rivers and Harbors Act of 1899 (RHA) (33 U.S.C. 403) and section 404 of the Clean Water Act (CWA) (33 U.S.C. 1344). In addition, it is anticipated that a section 408 permission will be required pursuant to section 14 of the RHA (33 U.S.C. 408), for any proposed alterations that have the potential to alter, occupy, or use any existing federally authorized civil works projects.

The USACE considers issuance of permits and permissions under these three delegated authorities a major Federal action connected to BOEM's action (40 CFR 1501.9(e)(1)). The need for the project as provided by the applicant in volume 1, section 1.2 of the COP and reviewed by USACE for NEPA purposes is to provide a commercially viable offshore wind energy project within the Lease Area to supply electricity in support of renewable and offshore wind energy goals established by the State of New Jersey and the State of New York.

The basic Project purpose, as determined by USACE for section 404(b)(1) guidelines evaluation, is offshore wind energy generation. The overall project purpose for section 404(b)(1) guidelines evaluation, as determined by USACE, is the construction and operation of a commercial-scale, offshore wind energy project for renewable energy generation in Lease Area OCS–A 0549 offshore New Jersey and transmission to the New Jersey and/or New York energy grid.

The purpose of USACE section 408 action as determined by Engineer Circular 1165–2–220 is to evaluate the applicant's request and determine whether the proposed alterations are injurious to the public interest or impair the usefulness of the USACE project. The USACE section 408 permission is needed to ensure that congressionally authorized projects continue to provide their intended benefits to the public.

USACE intends to adopt BOEM's EIS to support its decision on any permits or permissions requested under section 10 of the RHA, section 404 of the CWA, and section 408 of the RHA. The USACE would adopt the EIS per 40 CFR 1506.3 if, after its independent review of the document, it concludes that the EIS satisfies the USACE's comments and recommendations. Based on its participation as a cooperating agency and its consideration of BOEM's EIS, USACE intends to issue a record of decision (ROD) to formally document its decision on the Proposed Action.

The U.S. Environmental Protection Agency (EPA) Region 2 anticipates requests under section 402 of the CWA for an individual National Pollutants Discharge Elimination System (NPDES) permit to authorize discharges to surface waters from operation of a high voltage direct current (HVDC) OSS and the installation of suction bucket foundations on the U.S. OCS. EPA intends to rely on the Final EIS to support its decision on NPDES permit issuance.

Proposed Action and Preliminary Alternatives

Atlantic Shores proposes to construct and operate an offshore wind energy facility within Lease Area OCS–A–0549, with up to 168 total foundation locations. Offshore components for the Atlantic Shores North Project include up to 157 WTGs and up to 8 small, 4 medium, or 3 large OSSs, foundations and associated scour protection for WTGs, associated interarray cables, up to 8 high voltage alternating current (HVAC) and HVDC submarine export cable routes in 2 offshore ECCs, cable protection, up to 1 permanent met tower, and up to 2 temporary metocean buoys.

Atlantic Shores is considering monopile, piled jacket, mono-buckets, suction-bucket jackets, suction bucket tetrahedron bases, gravity-based structures, or gravity-pad tetrahedron base foundation types to support the WTGs and OSSs. The WTGs, OSSs, foundations, and interarray cables would be located entirely within the Lease Area. Two offshore export cable corridors are proposed to transmit electricity from the lease areas to shore. Additional details on the ECCs and onshore facilities are described under the Purpose and Need section of this NOI.

BOEM will evaluate reasonable alternatives to the Proposed Action that are identified during the scoping period and included in the draft EIS, including a no action alternative. Under the no action alternative, BOEM would disapprove the Atlantic Shores North COP, and the proposed wind energy facility described in the COP would not be built within the Lease Area.

In addition to the Proposed Action and the no action alternative (*i.e.,* disapproval of the COP), potential alternatives that the draft EIS could analyze include the following preliminary alternatives.

- *Uniform Grid Alternative:* Move all permanent structures that narrow any linear rows and columns to fewer than 0.6 nautical miles (1,100 meters) or in a layout that eliminates two distinct lines of orientation in a grid pattern.
- *Visual Minimization Alternative:* BOEM intends to examine height restrictions and setbacks to reduce visual impacts.
- *Habitat and Fisheries Impact Minimization Alternative:* BOEM intends to examine alternatives that would reduce impacts to habitat and fisheries.

After completing the EIS and associated consultations, BOEM will decide through a ROD whether to approve, approve with modification, or disapprove the Atlantic Shores North Project COP. If BOEM approves the COP, Atlantic Shores must comply with all conditions of its approval.

Summary of Potential Impacts

The draft EIS will identify and describe the potential effects of the Proposed Action and the alternatives on the human environment. Those potential effects must be reasonably foreseeable and must have a reasonably close causal relationship to the Proposed Action and the alternatives. Such effects include those that occur at the same time and place as the Proposed Action and alternatives and those that are later in time or occur in a different place.

Potential effects include, but are not limited to, impacts (whether beneficial or adverse) on air quality; water quality; bats; benthic habitat; essential fish habitat; invertebrates; finfish; birds; marine mammals; terrestrial and coastal habitats and fauna; sea turtles; wetlands and other waters of the United States; commercial fisheries and for-hire recreational fishing; cultural resources; Tribal issues of concern; demographics; employment; economics; environmental justice; land use and coastal infrastructure; navigation and vessel traffic; other marine uses; recreation and tourism; and visual resources. These potential effects will be analyzed in the draft and final EIS.

Based on a preliminary evaluation of the resources listed in the preceding paragraph, BOEM expects potential impacts on sea turtles and marine mammals from underwater noise caused by construction and from collision risks with Project-related vessel traffic. Structures installed by the Project could permanently change benthic and fish habitats (*e.g.,* creation of artificial reefs). Commercial fisheries and for-hire recreational fishing could be impacted. Project structures above the water could affect the visual character defining historic properties and recreational and tourism areas. Project structures also would pose an allision and height hazard to vessels passing close by, and vessels would, in turn, pose a hazard to the structures. Additionally, the Project might cause conflicts with military activities, air traffic, land-based radar services, cables and pipelines, and scientific surveys. The EIS will analyze all significant impacts, as well as potential measures that would avoid, minimize, or mitigate identified non-beneficial impacts.

Beneficial impacts are also expected by facilitating achievement of State renewable energy goals, increasing job opportunities, improving air quality, and addressing climate change through E.O. 14008.

(i) Anticipated Permits and Authorizations

In addition to the requested COP approval, various other Federal, State, and local authorizations will be required for the Project. Applicable Federal laws include the Endangered Species Act, Magnuson-Stevens Fishery Conservation and Management Act, MMPA, RHA, CWA, Clean Air Act section 328, and the Coastal Zone Management Act. BOEM will also conduct government-to-government Tribal consultations. For a detailed listing of regulatory requirements applicable to the Project, please see the COP, volume I, available at *https://www.boem.gov/renewable-energy/state-activities/new-jersey/atlantic-shores-north-ocs-0549.*

(ii) BOEM has chosen to use the NEPA process to fulfill its obligations under NHPA. While BOEM's obligations under NHPA and NEPA are independent, regulations implementing section 106 of NHPA at 36 CFR 800.8(c) allow the NEPA process and documentation to substitute for various aspects of the NHPA review. This process is intended to improve efficiency, promote transparency and accountability, and support a broadened discussion of potential effects that the Project could have on the human environment. During preparation of the EIS, BOEM will ensure that the NEPA process will fully meet all NHPA obligations.

(iii) Schedule for the Decision-Making Process

After the draft EIS is completed, BOEM will publish a notice of availability (NOA) and request public comments on the draft EIS. BOEM currently expects to issue the NOA for the draft EIS in June 2025. After the public comment period ends, BOEM will review and respond to comments received and will develop the final EIS. BOEM currently expects to make the final EIS available to the public in March 2026. A ROD will be completed no sooner than 30 days after the final EIS is released, in accordance with 40 CFR 1506.11.

This Project is a ''covered project'' under section 41 of the Fixing America's Surface Transportation Act (FAST–41). FAST–41 provides increased transparency and predictability by requiring Federal agencies to publish comprehensive permitting timetables for all covered projects. FAST–41 also provides procedures for modifying permitting timetables to address the unpredictability inherent in the

environmental review and permitting process for significant infrastructure projects. To view the FAST–41 Permitting Dashboard for the Project, visit: *https://www.permits.performance.gov/permitting-project/fast-41-covered-projects/atlantic-shores-north.*

Scoping Process

This NOI commences the public scoping process to identify issues and potential alternatives for consideration in the Atlantic Shores North EIS. BOEM will hold three in-person and two virtual public scoping meetings at the times and dates described above under the ''DATES'' heading. Throughout the scoping process, Federal agencies, Tribes, State and local governments, and the public will have the opportunity to help BOEM identify significant resources and issues, impact-producing factors, reasonable alternatives (*e.g.,* size, geographic, seasonal, or other restrictions on construction and siting of facilities and activities), and potential mitigation measures to be analyzed in the EIS, as well as to provide additional information.

As noted above, BOEM will use the NEPA process to comply with NHPA. BOEM will consider all written requests from individuals and organizations to participate as consulting parties under NHPA and, as discussed below, will determine who among those parties will be a consulting party in accordance with NHPA regulations.

NEPA Cooperating Agencies

BOEM invites other Federal agencies and State and local governments to consider becoming cooperating agencies and invites federally recognized Tribes to become cooperating Tribal governments in the preparation of this EIS. The Council on Environmental Quality (CEQ) NEPA regulations specify that cooperating agencies and governments are those with ''jurisdiction by law or special expertise.'' Potential cooperating agencies should consider their authority and capacity to assume the responsibilities of a cooperating agency and should be aware that an agency's role in the environmental analysis neither enlarges nor diminishes the final decision-making authority of any other agency involved in the NEPA process.

BOEM has provided potential cooperating agencies with a written summary of expectations for cooperating agencies, including schedules, milestones, responsibilities, scope and detail of cooperating agencies' expected contributions, and availability of pre-decisional information. BOEM anticipates this summary will form the basis for a memorandum of agreement between BOEM and any non-Department of the Interior cooperating agency. Agencies should also consider the factors for determining cooperating agency status in the CEQ memorandum entitled ''Cooperating Agencies in Implementing the Procedural Requirements of the National Environmental Policy Act,'' dated January 30, 2002. This document is available on the internet at: *https://www.energy.gov/sites/prod/files/nepapub/nepa_documents/RedDont/G-CEQ-CoopAgenciesImplem.pdf.* BOEM, as the lead agency, does not provide financial assistance to cooperating agencies.

Governmental entities that are not cooperating agencies will have opportunities to provide information and comments to BOEM during the public input stages of the NEPA process.

NHPA Consulting Parties

Individuals and organizations with a demonstrated interest in the Project can request to participate as NHPA consulting parties under 36 CFR 800.2(c)(5) based on their legal or economic stake in historic properties affected by the Project.

Before issuing this NOI, BOEM compiled a list of potential consulting parties and invited them to become consulting parties. To become a consulting party, those invited must respond in writing by the requested response date.

Interested individuals and organizations that did not receive a written invitation can request to be consulting parties by writing to the staff NHPA contact at ICF International, Inc., the third-party EIS contractor supporting BOEM in its administration of this review. ICF's NHPA contact for this review is Maureen McCoy at *ASOW_North_Section106@icf.com.* BOEM will determine which interested parties should be consulting parties.

Public Participation

Federal agencies, Tribes, State and local governments, interested parties, and the public are requested to comment on the scope of this EIS, significant issues that should be addressed, and alternatives that should be considered.

Information on Submitting Comments

a. Freedom of Information Act

BOEM will protect your privileged and confidential information as required by the Freedom of Information Act (FOIA). Exemption 4 of FOIA applies to trade secrets and commercial or financial information that is privileged or confidential. If you wish to protect the confidentiality of such information, clearly label it and request that BOEM treat it as confidential. BOEM will not disclose such information if BOEM determines under 30 CFR 585.114(b) that it qualifies for exemption from disclosure under FOIA. Please label privileged or confidential information ''Contains Confidential Information'' and consider submitting such information as a separate attachment.

BOEM will not treat as confidential any aggregate summaries of such information or comments not containing such privileged or confidential information. Information that is not labeled as privileged or confidential may be regarded by BOEM as suitable for public release.

b. Personally Identifiable Information (PII)

BOEM discourages anonymous comments. Please include your name and address as part of your comment. You should be aware that your entire comment, including your name, address, and any other personally identifiable information included in your comment, may be made publicly available. All comments from individuals, businesses, and organizations will be available for public viewing on *regulations.gov.*

For BOEM to consider withholding your PII from disclosure, you must identify any information contained in your comments that, if released, would constitute a clearly unwarranted invasion of your personal privacy. You must also briefly describe any possible harmful consequences of the disclosure of information, such as embarrassment, injury, or other harm.

Even if BOEM withholds your information in the context of this notice, your submission is subject to FOIA. If your submission is requested under FOIA, your information will only be withheld if a determination is made that one of FOIA's exemptions to disclosure applies. Such a determination will be made in accordance with the Department's FOIA regulations and applicable law.

c. Section 304 of the NHPA (54 U.S.C. 307103(a))

After consultation with the Secretary, BOEM is required to withhold the location, character, or ownership of historic resources if it determines that disclosure may, among other things, risk harm to the historic resources or impede the use of a traditional religious site by practitioners. Tribal entities should

designate information that falls under section 304 of NHPA as confidential.

(i) Request for Identification of Potential Alternatives, Information, and Analyses Relevant to the Proposed Action

BOEM requests data, comments, views, information, analysis, alternatives, or suggestions relevant to the Proposed Action from the public; affected Federal, Tribal, State, and local governments, agencies, and offices; the scientific community; industry; or any other interested party. Specifically, BOEM requests information on the following topics:

1. Potential effects that the Proposed Action could have on biological resources, including bats, birds, coastal fauna, finfish, invertebrates, essential fish habitat, marine mammals, and sea turtles.

2. Potential effects that the Proposed Action could have on physical resources and conditions including air quality, water quality, wetlands, and other waters of the United States.

3. Potential effects that the Proposed Action could have on socioeconomic and cultural resources, including commercial fisheries and for-hire recreational fishing, demographics, employment, economics, environmental justice, land use and coastal infrastructure, navigation and vessel traffic, other uses (marine minerals, military use, aviation), recreation and tourism, and scenic and visual resources.

4. Other possible reasonable alternatives to the Proposed Action that BOEM should consider, including additional or alternative avoidance, minimization, and mitigation measures.

5. As part of its compliance with NHPA section 106 and its implementing regulations (36 CFR part 800), BOEM seeks comment and input from the public and consulting parties regarding the identification of historic properties within the Proposed Action's area of potential effects, the potential effects on those historic properties from the activities proposed in the COP, and any information that supports identification of historic properties under NHPA. BOEM also solicits proposed measures to avoid, minimize, or mitigate any adverse effects on historic properties. BOEM will present available information regarding known historic properties during the public scoping period at *https://www.boem.gov/renewable-energy/state-activities/new-jersey/atlantic-shores-north-ocs-0549.* BOEM's effects analysis for historic properties will be available for public and consulting party comment with the draft EIS.

6. Information on other current or planned activities in, or in the vicinity of, the Proposed Action, their possible impacts on the Project, and the Project's possible impacts on those activities.

7. Other information relevant to the Proposed Action and its impacts on the human environment.

To promote informed decision-making, comments should be as specific as possible and should provide as much detail as necessary to meaningfully and fully inform BOEM of the commenter's position. Comments should explain why the issues raised are important to the consideration of potential environmental impacts and possible alternatives to the Proposed Action, as well as economic, employment, and other impacts affecting the quality of the human environment.

The draft EIS will include a summary of all alternatives, information, and analyses submitted during the scoping process for consideration by BOEM and the cooperating agencies.

Authority: 42 U.S.C. 4321 *et seq.,* and 40 CFR 1501.9.

Karen J. Baker,

Chief, Office of Renewable Energy Programs, Bureau of Ocean Energy Management.

[FR Doc. 2024–05649 Filed 3–15–24; 8:45 am]

BILLING CODE 4340–98–P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management

[Docket No. BOEM–2024–0020]

Notice of Intent To Prepare an Environmental Assessment for Commercial Wind Lease Issuance, Site Characterization Activities, and Site Assessment Activities on the Atlantic Outer Continental Shelf in the Gulf of Maine Offshore the States of Maine, New Hampshire, and the Commonwealth of Massachusetts

AGENCY: Bureau of Ocean Energy Management, Interior.

ACTION: Notice of intent; request for comments.

SUMMARY: The Bureau of Ocean Energy Management (BOEM) intends to prepare an environmental assessment (EA) to consider the potential environmental impacts associated with possible wind energy-related leasing, site characterization activities, and site assessment activities on the U.S. Atlantic Outer Continental Shelf (OCS) in the Gulf of Maine offshore the States of Maine and New Hampshire and the Commonwealth of Massachusetts. BOEM is seeking public input regarding important environmental issues and the identification of reasonable alternatives that should be considered in the EA. The environmental impacts of any proposed wind energy projects will be assessed after a lease is issued and before BOEM decides whether or not to approve any lessee's project construction and operations plan.

DATES: BOEM must receive your comments no later than April 17, 2024.

ADDRESSES: You may submit comments by either of the following methods:

- *Through the regulations.gov web portal:* Navigate to *https://www.regulations.gov* and search for Docket No. BOEM–2024–0020 to submit public comments and view supporting and related materials available for this notice. Click on the ''Comment'' button below the document link. Enter your information and comment, then click ''Submit Comment''; or
- *By U.S. Postal Service or other delivery service:* Send your comments and information to the following address: Bureau of Ocean Energy Management, Office of Renewable Energy Programs, 45600 Woodland Road, Mail Stop VAM–OREP, Sterling, VA 20166.

FOR FURTHER INFORMATION CONTACT: Brandi Sangunett, BOEM, Environment Branch for Renewable Energy, 45600 Woodland Road, Mail Stop VAM–OREP, Sterling, VA 20166, (703) 787–1015 or *brandi.sangunett@boem.gov.*

SUPPLEMENTARY INFORMATION:

Background: On October 19, 2023, BOEM announced a draft wind energy area (WEA) on the U.S. Gulf of Maine OCS for public review and comment. The Draft WEA is in the Gulf of Maine offshore the States of Maine and New Hampshire and the Commonwealth of Massachusetts, covering approximately 3.5 million acres. Before finalizing the WEA, BOEM considered feedback from government partners, federally recognized Tribes, ocean users, and other stakeholders. Concurrently with this NOI, BOEM is announcing the final wind energy area (Final WEA) in the Gulf of Maine, covering approximately 2 million acres. Detailed information about the WEA can be found on BOEM's website at: *https://www.boem.gov/renewable-energy/state-activities/maine/gulf-maine.*

Proposed Action and Scope of Analysis

The EA's proposed action is issuing wind energy leases in the Gulf of Maine WEA. The EA will consider project easements and grants for subsea cable corridors associated with leasing. The EA also will consider the potential environmental impacts associated with

site characterization activities (*i.e.,* biological, archaeological, geological, and geophysical surveys and core samples) and site assessment activities (*i.e.,* installation of meteorological buoys) that are expected to take place following lease issuance. The EA's proposed action does not include the installation of meteorological towers because developers prefer meteorological buoys to collect data. In addition to the no-action alternative, other alternatives may be considered, such as exclusion of certain areas.

BOEM has decided to prepare an EA for this proposed action in order to assist agency planning and decision-making (40 CFR 1501.3). This notice starts the scoping process for the EA and solicits information regarding important environmental issues and alternatives that should be considered in the EA (43 CFR 46.305). Additionally, BOEM will use the scoping process to identify and eliminate from detailed analysis issues that are not significant or that have been analyzed by prior environmental reviews (40 CFR 1501.9(f)(1)).

BOEM will use responses to this notice and the EA public input process to satisfy the public involvement requirements of the National Historic Preservation Act (NHPA), as provided in 36 CFR 800.2(d)(3). Specific to NHPA, BOEM seeks information from the public on the identification and assessment of potential impacts to cultural resources and historic properties that might be impacted by possible wind energy-related leasing, site characterization, and site assessment activities in the WEA.

The EA analyses will also support compliance with other environmental statutes (*e.g.,* Coastal Zone Management Act, Endangered Species Act, Magnuson-Stevens Fishery Conservation and Management Act, and Marine Mammal Protection Act).

Wind energy leases do not authorize any activities on the OCS. Instead, leases grant lessees the exclusive right to submit plans for BOEM's consideration and approval. Prior to deciding whether to approve any plan for the construction and operation of commercial wind energy facilities, BOEM will prepare a plan-specific environmental analysis and will comply with all consultation requirements. Therefore, this EA will not consider the construction and operation of any commercial wind energy facilities in the Final WEA.

Cooperating Agencies: BOEM invites Tribal governments and Federal, State, and local government agencies to consider becoming cooperating agencies in the preparation of this EA. Council on Environmental Quality (CEQ) regulations implementing the procedural provisions of NEPA define cooperating agencies as those with ''jurisdiction by law or special expertise with respect to any environmental impact involved in a proposal (or a reasonable alternative)'' (40 CFR 1508.1(e)). Potential cooperating agencies should consider their authority and capacity to assume the responsibilities of a cooperating agency. An agency's role in the environmental analysis neither enlarges nor diminishes the final decision-making authority of any other agency involved in the NEPA process.

Upon request, BOEM will provide potential cooperating Tribal governments and agencies with a draft memorandum of agreement that includes a schedule with critical action dates and milestones, mutual responsibilities, designated points of contact, and expectations for handling pre-decisional information. Agencies should also consider the ''Factors for Determining Whether to Invite, Decline or End Cooperating Agency Status'' in CEQ's memo ''Cooperating Agencies in Implementing the Procedural Requirements of [NEPA]'' dated January 30, 2002. A copy of this document is available at: *https://www.energy.gov/sites/prod/files/nepapub/nepa_documents/RedDont/G-CEQ-CoopAgenciesImplem.pdf.*

BOEM, as the lead agency, will not provide financial assistance to cooperating agencies. Even if an organization is not a cooperating agency, opportunities will exist to provide information and comments to BOEM during the normal public input phases of the NEPA process.

Comments: Federal agencies; Tribal, State, and local governments; and other interested parties are requested to comment on the important issues to be considered in the EA. For information on how to submit comments and the deadline, see the **DATES** and **ADDRESSES** sections above.

Information on Submitting Comments

a. Privileged and Confidential Information

BOEM will protect privileged and confidential information in your comment under the Freedom of Information Act (FOIA). Exemption 4 of FOIA applies to trade secrets and commercial and financial information that is privileged or confidential. If you wish to protect the confidentiality of such information, clearly label it and request that BOEM treat it as confidential. BOEM will not disclose such information if BOEM determines under 30 CFR 585.114(b) that it qualifies for exemption from disclosure under FOIA. Please label privileged or confidential information ''Contains Confidential Information'' and consider submitting such information as a separate attachment.

BOEM will not treat as confidential any aggregate summaries of such information or comments not containing such privileged or confidential information. Information that is not labeled as privileged or confidential may be regarded by BOEM as suitable for public release.

b. Personally Identifiable Information

BOEM discourages anonymous comments. Please include your name and address as part of your comment. You should be aware that your entire comment, including your name, address, and any personally identifiable information (PII) included in your comment, may be made publicly available. All submissions from identified individuals, businesses, and organizations will be available for public viewing on *regulations.gov.* Except for clearly identified privileged and confidential information, BOEM will make available for public inspection all comments, in their entirety, submitted by organizations and businesses, or by individuals identifying themselves as representatives of organizations or businesses.

For BOEM to consider withholding your PII from disclosure, you must identify any information contained in your comments that, if released, would constitute a clearly unwarranted invasion of your personal privacy. You must also briefly describe any possible harmful consequences of the disclosure of information, such as embarrassment, injury, or other harm. Even if BOEM withholds your information in the context of this notice, your submission is subject to FOIA. If your submission is requested under FOIA, your information will only be withheld if a determination is made that one of the FOIA's exemptions to disclosure applies. Such a determination will be made in accordance with the Department's FOIA regulations and applicable law.

c. Section 304 of the National Historic Preservation Act (54 U.S.C. 307103(a))

After consultation with the Secretary of the Interior, BOEM is required to withhold the location, character, or ownership of historic resources if it determines that disclosure may, among other things, cause a significant invasion of privacy, risk harm to the historic resources, or impede the use of

a traditional religious site by practitioners. Tribal entities and other parties providing information on historic resources should designate information that they wish to be held as confidential and provide the reasons why BOEM should do so.

Authority: This notice of intent to prepare an EA is published pursuant to the National Environmental Policy Act, 42 U.S.C. 4321 *et seq.,* 40 CFR part 1500, and 43 CFR 46.305.

Karen Baker,

Chief, Office of Renewable Energy Programs, Bureau of Ocean Energy Management.

[FR Doc. 2024–05699 Filed 3–15–24; 8:45 am]

BILLING CODE 4340–98–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1393]

Certain Vehicle Telematics, Fleet Management, and Video-Based Safety Systems, Devices, and Components Thereof, Notice of Institution of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on February 9, 2024, under section 337 of the Tariff Act of 1930, as amended, on behalf of Samsara Inc. of San Francisco, California. A supplement to the complaint was filed on February 29, 2024. The complaint, as supplemented, 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 vehicle telematics, fleet management, and video-based safety systems, devices, and components thereof by reason of the infringement of certain claims of U.S. Patent No. 11,190,373 (''the '373 patent''); U.S. Patent No. 11,127,130 (''the '130 patent''); and U.S. Patent No. 11,611,621 (''the '621 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 a cease and desist order.

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 March 12, 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 15, 17, and 18 of the '373 patent; claims 1 and 5 of the '130 patent; and claims 1–5, 8–12, and 15–19 of the '621 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 ''AI dashcams, vehicle gateways, and corresponding software'';

(3) Pursuant to Commission Rule 210.50(b)(l), 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. l337(d)(l), (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:* Samsara Inc., 1 De Haro Street, San Francisco, CA 94107.

(b) The respondent is the following entity alleged to be in violation of section 337, and is the party upon which the complaint is to be served: Motive Technologies Inc., 55 Hawthorne Street, Suite 400, San Francisco, CA 94105.

(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 respondent 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 the 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: March 12, 2024.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2024–05660 Filed 3–15–24; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1371]

Certain LED Lighting Devices, LED Power Supplies, Components Thereof, and Products Containing Same; Notice of Commission Determination Not To Review an Initial Determination Terminating the Investigation Based on Settlement

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (''ID'') (Order No. 15) issued by the presiding administrative law judge (''ALJ''), terminating the investigation in its entirety based on settlement.

FOR FURTHER INFORMATION CONTACT: Robert J. Needham, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 708–5468. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission's electronic docket (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 *https://www.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 instituted this investigation on August 18, 2023, based on a complaint filed by Signify North America Corporation of Bridgewater, New Jersey, and Signify Holding B.V. of the Netherlands (together, ''Signify''). 88 FR 56661–62 (Aug. 18, 2023). The complaint alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain LED lighting devices, LED power supplies, components thereof, and products containing same by reason of infringement of claims 1–4, 6, and 7 of U.S. Patent No. 8,063,577; claim 1 of U.S. Patent No. 9,119,268; and claims 1, 4–7, 9, 10, 14, and 15 of U.S. Patent No. 8,070,328. *Id.* The complaint further alleges that a domestic industry exists. *Id.* The Commission's notice of investigation named as respondent Current Lighting Solutions, LLC of Beachwood, Ohio (''Current''). *Id.* at 56662. The Office of Unfair Import Investigations (''OUII'') is participating in the investigation. *Id.*

On February 16, 2024, Signify and Current filed a joint motion to terminate the investigation based on a settlement agreement between Signify and Current. On February 21, 2024, OUII filed a response in support of the motion.

On February 21, 2024, the ALJ issued the subject ID pursuant to Commission Rule 210.21(b) (19 CFR 210.21(b)), granting the motion. The ID finds that the parties complied with the requirement to attach the settlement agreement and that terminating the investigation based on settlement does not adversely affect the public interest. No party petitioned for review of the subject ID.

The Commission has determined not to review the subject ID. The investigation is hereby terminated in its entirety.

The Commission vote for this determination took place on March 12, 2024.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: March 12, 2024.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2024–05652 Filed 3–15–24; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

[Docket No. OIP 101]

Request for Information Regarding Federal Integrated Business Framework Standards

AGENCY: Office of Information Policy, Department of Justice.

ACTION: Request for public comment.

SUMMARY: The Department of Justice is seeking comments on the proposed Freedom of Information Act (FOIA) business standards that have been created in support of Federal shared services. This is the first set of FOIA standards being developed and input will be used in formulation of business standards for federal agency FOIA case management systems.

DATES: Electronic comments must be submitted, and written comments must be postmarked, on or before May 17, 2024.

ADDRESSES: You may submit comments, identified by Docket No. BSC–FOI–2024–0001, through the Federal eRulemaking Portal: *www.regulations.gov.* Follow the instructions for submitting comments.

- *Postal Mail or Commercial Delivery:* If you do not have internet access or electronic submission is not possible, you may mail written comments to Lindsay Steel, U.S. Department of Justice, Office of Information Policy, Chief of Compliance Staff, U.S. Department of Justice, 6th Floor, 441 G St. NW, Washington DC 20530. To ensure proper handling, please reference the agency name and Docket No. OIP 101 on your correspondence.
- *Please note that comments submitted by email or fax may not be reviewed by DOJ.*

FOR FURTHER INFORMATION CONTACT: Lindsay Steel, U.S. Department of Justice, Office of Information Policy, Chief of Compliance Staff, at 202–514–3642, or by email at *DOJ.OIP.FOIA@usdoj.gov.*

SUPPLEMENTARY INFORMATION:

I. Public Participation

Interested persons are invited to provide comments or feedback by submitting written data, views, or arguments on all aspects of this notice via one of the methods and by the deadline stated above.

Please note that all comments received are considered part of the public record and made available for public inspection at *www.regulations.gov.* Such information includes personally identifiable information (PII) (such as your name, address, etc.). Interested persons are not required to submit their PII in order to comment on this notice. However, any PII that is submitted is subject to being posted to the publicly accessible *www.regulations.gov* site without redaction.

Confidential business information clearly identified in the first paragraph of the comment as such will not be placed in the public docket file. The Department may withhold from public viewing information provided in comments that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.* To inspect the agency's public docket file in person, you must make an appointment with the agency. Please see the **FOR FURTHER INFORMATION CONTACT**

paragraph above for agency contact information.

II. Discussion

A. Background

On April 26, 2019, the Office of Management and Budget published OMB Memorandum 19–16, Centralized Mission Support Capabilities for the Federal Government (available at *https://www.whitehouse.gov/wp-content/uploads/2019/04/M-19-16.pdf*). Mission support business standards, established and agreed to by agencies, using the Federal Integrated Business Framework (FIBF) website at *https://ussm.gsa.gov/fibf/,* enable the Federal Government to better coordinate on the decision-making needed to determine what technology or services can be adopted and commonly shared. These business standards are an essential first step towards agreement on outcomes, data, and cross-functional end-to-end processes that will drive economies of scale and leverage the Government's buying power. The business standards will be used as the foundation for common mission support services shared by Federal agencies.

The Department of Justice's Office of Information Policy (DOJ/OIP) serves as the FOIA business standards lead on the Business Standards Council (BSC). The goal of the FOIA business standards is to drive efficiency and consistency in FOIA administration across the Federal Government.

B. Intended Audience

The intended audience for this Request for Comment consists primarily of commercial vendors offering FOIA case management solutions, agencies procuring new solutions, and FOIA requesters, especially organizations that regularly submit FOIA requests to federal government agencies, although others are also welcome to comment.

Consistent with OMB Memorandum 19–16 and the FIBF, OIP is seeking public comment on these draft business standards for FOIA case management solutions, including comments on understandability of the standards, suggested changes, and usefulness of the draft standards. For more information on the FIBF and ongoing efforts to develop common FOIA business standards for FOIA administration across the Federal Government, please see *https://ussm.gsa.gov/fibf-foia/.*

The two FIBF standards of particular relevance to this Request for Information are the Federal Business Lifecycles standards and the Business Capability standards. The Federal Business Lifecycles consist of functional areas and activities. The FOIA functional areas include FOIA Management, Reporting and Proactive Disclosures; FOIA Request Intake; FOIA Request Processing and Response; FOIA Request Agency Referral, Consults, and Coordination; FOIA Request Fee Estimation and Processing; FOIA Administrative Appeal; and, FOIA Customer Service. Within these functional areas, the activities provide further breakdown of each category. The Business Capabilities define specific outcome-based business needs tied to each activity. For example, the FOIA Request Intake functional area and FOIA Request Submission activity includes a FOIA business capability for receiving a request from *FOIA.gov* via Application Programming Interface (API), which is tied to the statutory requirement at 5 U.S.C. 552(m) (2018).

The standards are designed to serve as a common reference defining business needs for FOIA case management systems that agencies and commercial vendors can draw from to develop solutions that best meet an agency's need. Agencies are not required to use case management systems that fulfill every element of the standards; rather, they can use the standards as building blocks to define their own requirements more efficiently. Vendors can use the standards to develop tools capable of meeting agencies' needs.

III. Questions for Public Comment

Public comments on the following questions will be used in formulation of the final business standards.

1. Do the draft business standards appropriately document the business processes covered?

2. Are the draft business standards easy to understand?

3. Will your organization be able to show how your solutions and/or services can meet these draft business standards?

4. What would you change about the draft business standards?

5. Is there anything missing?

Dated: March 12, 2024.

Bobak Talebian,

Director, Office of Information Policy.

[FR Doc. 2024–05663 Filed 3–15–24; 8:45 am]

BILLING CODE 4410–BE–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), the Clean Water Act (CWA), and the Oil Pollution Act (OPA) and Notice of Availability of Draft Restoration Plan/Environmental Assessment of Restoration Project Incorporated Into Proposed Consent Decree

On March 12, 2024, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the Western District Washington in the lawsuit entitled *United States of America, State of Washington, Muckleshoot Indian Tribe, and Suquamish Indian Tribe of the Port Madison Reservation* v. *General Recycling of Washington, LLC,* Civil Action No. 2:24–cv–00329, Docket No. 3–1.

The complaint asserts claims against General Recycling of Washington, LLC, The David J. Joseph Company, and Nucor Steel Seattle, Inc. (Defendants) for natural resource damages by the United States on behalf of the National Oceanic and Atmospheric Administration and the Department of the Interior; the State of Washington; the Muckleshoot Indian Tribe; and the Suquamish Indian Tribe of the Port Madison Reservation (collectively, the Trustees) pursuant to section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. 9607(a); section 311 of the Clean Water Act (CWA), 33 U.S.C. 1321; section 1002(b) of the Oil Pollution Act (OPA), 33 U.S.C. 2702(b); and the Washington Model Toxics Control Act (MTCA), RCW 70A.305.

The proposed consent decree resolves claims alleged against Defendants for natural resource damages caused by releases of hazardous substances and discharges of oil from the General Recycling facility, currently owned and/or operated by General Recycling of Washington, LLC and Nucor Steel Seattle, Inc., and formerly operated by The David J. Joseph Company, to the Lower Duwamish River in and near Seattle, Washington. The settlement requires Defendants to construct, monitor, and maintain a habitat restoration project at the facility, creating nearly three acres of off-channel habitat for injured natural resources. The settlement also requires Defendants to pay a total of $360,558.12 for their equitable share of assessment costs incurred by the Trustees. The

Defendants will receive covenants not to sue under the statutes listed in the complaint and proposed consent decree for specified natural resource damages.

The Trustees have developed a Draft Restoration Plan and Environmental Assessment (''RP/EA'') for the habitat restoration project, incorporated into the proposed consent decree. The Draft RP/EA proposes to select the habitat restoration project as one of the projects to address injuries to natural resources in the Lower Duwamish River.

The publication of this notice opens a period for public comment on the proposed consent decree and the Draft RP/EA. Comments on the proposed consent decree should be addressed to the Assistant Attorney General, Environmental and Natural Resources Division, and should refer to *United States of America, et al.* v. *General Recycling of Washington, LLC, et al.,* D.J. Ref. No. 90–11–3–07227/14. 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 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.

Any comments submitted in writing may be filed by the United States in whole or in part on the public court docket without notice to the commenter.

During the public comment period, the proposed consent decree may be examined and downloaded at this Justice Department website: *https://www.justice.gov/enrd/consent-decrees.* If you require assistance accessing the proposed consent decree, you may request assistance by email or by mail to the addresses provided above for submitting comments.

The publication of this notice also opens a period for public comment on the Draft RP/EA. The Trustees will receive comments relating to the Draft RP/EA for a period of thirty (30) days from the date of this publication. A copy of the Draft RP/EA is available electronically at *https://pub-data.diver.orr.noaa.gov/admin-record/5501/LDR%20General%20Recycling%20Draft%20RP%20EA%20for%20Public%20Review%20030624.pdf.*

A copy of the Draft RP/EA may also be obtained by mail from: Lower Duwamish River NRDA, Attn: Terill Hollweg, National Oceanic and Atmospheric Administration, 7600 Sand Point Way NE, Building 1 (DARC), Seattle, WA 98115.

Please reference: Draft RP/EA related to *United States et al.* v. *General Recycling Consent Decree.*

Comments on the draft RP/EA may be submitted electronically to *lowerduwamishriver.nrda@noaa.gov.* Additionally, written comments on the Draft RP/EA should be addressed to: Lower Duwamish River NRDA, Attn: Terill Hollweg, National Oceanic and Atmospheric Administration, 7600 Sand Point Way NE, Building 1 (DARC), Seattle, WA 98115.

Kathryn C. Macdonald,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2024–05659 Filed 3–15–24; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OJP (BJA) Docket No. 1823]

Meeting of the Public Safety Officer Medal of Valor Review Board

AGENCY: Bureau of Justice Assistance (BJA), Office of Justice Programs (OJP).

ACTION: Notice of meeting.

SUMMARY: This is an announcement of a meeting (via WebEx/conference call-in) of the Public Safety Officer Medal of Valor Review Board to cover a range of issues of importance to the Board, to include but not limited to: Member terms, program administrative system updates, marketing, and outreach.

DATES: June 12, 2024, 1 p.m. to 2 p.m. ET.

ADDRESSES: This meeting will be held virtually using web conferencing technology. The public may hear the proceedings of this virtual meeting/conference call by registering at last seven (7) days in advance with Gregory Joy (contact information below). All emailed requests to register must include within its Subject line, ''MOV Board Meeting June 12, 2024''.

FOR FURTHER INFORMATION CONTACT: Gregory Joy, Policy Advisor, Bureau of Justice Assistance, Office of Justice Programs, by telephone at (202) 514–1369, or by email at *Gregory.joy@usdoj.gov.*

SUPPLEMENTARY INFORMATION: The Public Safety Officer Medal of Valor Review Board carries out those advisory functions specified in 42 U.S.C. 15202. Pursuant to 42 U.S.C. 15201, the President of the United States is authorized to award the Public Safety Officer Medal of Valor, the highest national award for valor by a public safety officer.

This virtual meeting/conference call is open to the public to participate remotely. For security purposes, members of the public who wish to participate must register at least seven (7) days in advance of the meeting/conference call by contacting Mr. Joy.

Access to the virtual meeting/conference call will not be allowed without prior registration. Please submit any comments or written statements for consideration by the Review Board in writing at least seven (7) days in advance of the meeting date.

Gregory Joy,

Policy Advisor/Designated Federal Officer, Bureau of Justice Assistance.

[FR Doc. 2024–05707 Filed 3–15–24; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Alternative Method of Compliance for Certain Simplified Employee Pensions

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Employee Benefits Security Administration (EBSA)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that the agency receives on or before April 17, 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: Michael Howell by telephone at 202–693–6782, or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: Section 110 of ERISA relieves sponsors of certain Simplified Employee Pensions (SEPs) from ERISA's Title I reporting

and disclosure requirements by prescribing an alternative method of compliance. These SEPs are, for purposes of this information collection, referred to as ''non-model SEPs'' because they exclude those SEPs which are created through use of Internal Revenue Service (IRS) Form 5305–SEP, and those SEPs in which the employer influences the employees as to their choice of IRAs to which employer contributions will be made, and that also prohibit withdrawals by participants.

This information collection requirement generally requires timely written disclosure to employees eligible to participate in non-model SEPs, including specific information concerning: participation requirements; allocation formulas for employer contributions; designated contact persons for further information; and, for employer recommended IRAs, specific terms of the IRAs such as rates of return and any restrictions on withdrawals. Moreover, general information is required that provides a clear explanation of: the operation of the non-model SEP; participation requirements and any withdrawal restrictions; and the tax treatment of the SEP-related IRA. Furthermore, statements must be provided that inform participants of: any other IRAs under the non-model SEP other than that to which employer contributions are made; any options regarding rollovers and contributions to other IRAs; descriptions of IRS disclosure requirements to participants and information regarding social security integration (if applicable); and timely notification of any amendments to the terms of the non-model SEP. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on August 25, 2023 (88 FR 58312).

Comments are invited on: (1) whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

DOL seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOL notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Agency: DOL–EBSA.

Title of Collection: Alternative Method of Compliance for Certain Simplified Employee Pensions.

OMB Control Number: 1210–0034.

Affected Public: Businesses or other for-profits.

Total Estimated Number of Respondents: 35,560.

Total Estimated Number of Responses: 67,930.

Total Estimated Annual Time Burden: 21,227 hours.

Total Estimated Annual Other Costs Burden: $2,066.

(Authority: 44 U.S.C. 3507(a)(1)(D))

Michael Howell,

Senior Paperwork Reduction Act Analyst.

[FR Doc. 2024–05646 Filed 3–15–24; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Office of Workers' Compensation Programs, Division of Federal Employees', Longshore and Harbor Workers' Compensation—DFELHWC—Longshore; Proposed Revision of Existing Collection; Longshore and Harbor Workers' Compensation Act Notice of Controversion of Right to Compensation (LS–207)

AGENCY: Office of Workers' Compensation Programs, Division of Federal Employees', Longshore and Harbor Workers' Compensation (DFELHWC), Department of Labor.

ACTION: Request for public comments.

SUMMARY: The Department of Labor (DOL), as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance request for comment to provide the general public and Federal agencies with an opportunity to comment on proposed collections of information in accordance with the Paperwork Reduction Act of 1995. This request helps to ensure that: requested data can be provided in the desired format; reporting burden (time and financial resources) is minimized; collection instruments are clearly understood; and the impact of collection requirements on respondents can be properly assessed. OWCP/DFELHWC is soliciting comments on the information collection for ''Notice of Controversion of Right to Compensation (LS–207).''

DATES: Consideration will be given to all written comments received by May 17, 2024.

ADDRESSES: You may submit comment as follows. Please note that late, untimely filed comments will not be considered.

Written/Paper Submissions: Submit written/paper submissions in the following way:

- *Mail/Hand Delivery:* Mail or visit DOL–OWCP/DFELHWC, Office of Workers' Compensation Programs, Division of Federal Employees' Longshore and Harbor Workers' Compensation, U.S. Department of Labor, 200 Constitution Ave. NW, Room S3323, Washington, DC 20210.
- OWCP/DFELHWC will post your comment as well as any attachments, except for information submitted and marked as confidential, in the docket at *https://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Anjanette Suggs, Office of Workers' Compensation Programs, Division of Federal Employees', Longshore and Harbor Workers' Compensation, OWCP/DFELHWC at *suggs.anjanette@dol.gov* (email); or (202) 354–9660.

SUPPLEMENTARY INFORMATION:

I. Background

The Office of Workers' Compensation Programs administers the Longshore and Harbor Workers' Compensation Act. The Act provides benefits to workers' injured in maritime employment on the navigable waters of the United States or in an adjoining area customarily used by an employer in loading, unloading, repairing, or building a vessel. In addition, several acts extend the Longshore Act's coverage to certain other employees. Legal authority for this information collection is found at 33 U.S.C. 930(a) and (b).

Currently, the Office of Workers' Compensation (OWCP) is soliciting comments concerning the proposed collection: Notice of Controversion of Right to Compensation (LS–207). A copy of the proposed information collection request can be obtained by contacting the office listed below in the

address section of this Notice. Legal authority for this information collection is found at 33 U.S.C. 914(d). Regulatory authority is found at 20 CFR 702.251.

II. Desired Focus of Comments

The OWCP/DFELHWC is soliciting comments concerning the proposed information collection request (ICR) titled, ''Notice of Controversion of Right to Compensation (LS–207).''

OWCP/DFELHWC is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.
- Evaluate the accuracy of OWCP/DFELHWC's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used in the estimate.
- Suggest methods to enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Background documents related to this information collection request are available at *https://regulations.gov* and at DOL–OWCP/DFELHWC located at 200 Constitution Ave. NW, Room S3323, Washington, DC 20210. Questions about the information collection requirements may be directed to the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

III. Current Actions

This information collection request concerns the ''Notice of Controversion of Right to Compensation (LS–207).'' OWCP/DFELHWC has updated the data with respect to the number of respondents, responses, burden hours, and burden costs supporting this information collection request from the previous information collection request.

Type of Review: Revision of currently approved collection.

Agency: DOL-Office of Workers' Compensation Programs, Division of Federal Employees', Longshore and Harbor Workers' Compensation, OWCP/DFELHWC.

OMB Control Number: 1240–0042.

Affected Public: Private Sector.

Number of Respondents: 550.

Frequency: On occasion.

Number of Responses: 19,250.

Annual Burden Hours: 4,813 hours.

Annual Respondent or Recordkeeper Cost: $2,118.

OWCP Forms: Form LS–207, Notice of Controversion of Right to Compensation.

Comments submitted in response to this notice will be summarized in the request for Office of Management and Budget approval of the proposed information collection request; they will become a matter of public record and will be available at *https://www.reginfo.gov.*

(Authority: 44 U.S.C. 3506(C)(2)(A))

Anjanette Suggs,

Agency Clearance Officer.

[FR Doc. 2024–05644 Filed 3–15–24; 8:45 am]

BILLING CODE P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Investment Advice to Participants and Beneficiaries

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Employee Benefits Security Administration (EBSA)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that the agency receives on or before April 17, 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: Michael Howell by telephone at 202–693–6782, or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: Under ERISA, providing ''investment advice'' is a fiduciary act. A fiduciary who advises participants about plan investment opportunities that pay the adviser fees or commissions may be subject to liability under the Employee Retirement Income Security Act of 1974 (ERISA) prohibited transaction rules. The Pension Protection Act of 2006 (Pub. L. 109–280) amended the ERISA and the Internal Revenue Code (Code) to include a statutory exemption for providing investment advice to participants and beneficiaries in self-directed defined contribution individual account ERISA-covered plans (Plans) and beneficiaries of individual retirement accounts, individual retirement annuities, Archer MSAs, health savings accounts and Coverdell education savings accounts (collectively IRAs) described in the Code. The statutory exemption provides relief from the prohibited transaction provisions of ERISA, and the parallel provisions of the Code.

The information collections that are conditions of the regulation include, third-party disclosures, recordkeeping, and audit requirements. With one exception, the regulation does not require any reporting or filing with the Federal government, but the designated records must be made available upon request. The exception is the requirement that the fiduciary adviser is required under certain circumstances to forward the audit report which is also a required disclosure under the regulation to the Department. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on August 25, 2023 (88 FR 58312).

Comments are invited on: (1) whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

DOL seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOL notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Agency: DOL–EBSA.

Title of Collection: Investment Advice to Participants and Beneficiaries.

OMB Control Number: 1210–0134.

Affected Public: Businesses or other for-profits.

Total Estimated Number of Respondents: 8,938.

Total Estimated Number of Responses: 24,698,107.

Total Estimated Annual Time Burden: 1,867,800 hours.

Total Estimated Annual Other Costs Burden: $247,377,814.

(Authority: 44 U.S.C. 3507(a)(1)(D))

Michael Howell,

Senior Paperwork Reduction Act Analyst.

[FR Doc. 2024–05645 Filed 3–15–24; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Wage and Hour Division

Agency Information Collection Activities; Comment Request; Information Collections: Work Study Program of the Child Labor Regulations

AGENCY: Wage and Hour Division, Department of Labor.

ACTION: Notice.

SUMMARY: The Department of Labor (the Department) is soliciting comments concerning a proposed extension of the information collection request (ICR) titled ''Work Study Programs of the Child Labor Regulations.'' This comment request is part of continuing Departmental efforts to reduce paperwork and respondent burden in accordance with the Paperwork Reduction Act of 1995 (PRA). The Department proposes to extend the approval of this existing information collection without change. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. A copy of the proposed information request may be obtained by contacting the office listed below in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section below on or before May 17, 2024.

ADDRESSES: You may submit comments identified by Control Number 1235–0024, by either one of the following methods:

- *Email: WHDPRAComments@dol.gov;*
- *Mail, Hand Delivery, Courier:* Division of Regulations, Legislation, and Interpretation, Wage and Hour, U.S. Department of Labor, Room S–3502, 200 Constitution Avenue NW, Washington, DC 20210.

Instructions: Please submit one copy of your comments by only one method. All submissions received must include the agency name and Control Number identified above for this information collection. Because we continue to experience delays in receiving mail in the Washington, DC area, commenters are strongly encouraged to transmit their comments electronically via email or to submit them by mail early. Comments, including any personal information provided, become a matter of public record. They will also be summarized and/or included in the request for Office of Management and Budget (OMB) approval of the information collection request.

FOR FURTHER INFORMATION CONTACT: Robert Waterman, Division of Regulations, Legislation, and Interpretation, Wage and Hour Division, U.S. Department of Labor, Room S–3502, 200 Constitution Avenue NW, Washington, DC 20210; telephone: (202) 693–0406 (this is not a toll-free number). Alternate formats are available upon request by calling 1–866–487–9243. If you are deaf, hard of hearing, or have a speech disability, please dial 7–1–1 to access telecommunications relay services.

SUPPLEMENTARY INFORMATION:

I. Background

The Wage and Hour Division (WHD) of the Department of Labor administers the Fair Labor Standards Act (FLSA), 29 U.S.C. 201, *et seq.* Section 3(l) of the Act establishes a minimum age of 16 years for most non-agricultural employment, but allows the employment of 14- and 15-year olds in occupations other than manufacturing and mining if the Secretary of Labor determines such employment is confined to: (1) periods that will not interfere with the minor's schooling; and (2) conditions that will not interfere with the minor's health and well-being. FLSA section 11(c) requires all covered employers to make, keep, and preserve records of their employees' wages, hours, and other conditions of employment. Section 11(c) authorizes the Secretary of Labor to prescribe the recordkeeping and reporting requirements for these records. The regulations set forth reporting requirements that include a Work Study Program application and written participation agreement. In order to use the child labor work study provisions, § 570.37(b) requires a local public or private school system to file with the Wage and Hour Division Administrator an application for approval of a Work Study Program as one that does not interfere with the schooling or health and well-being of the minors involved. The regulations also require preparation of a written participation agreement for each student participating in a Work Study Program and that the teacher-coordinator, employer, and student each sign the agreement.

II. Review Focus

The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Enhance the quality, utility, and clarity of the information to be collected;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

III. Current Actions

The Department of Labor seeks approval for an extension of this information collection in order to ensure effective administration of Work Study programs.

Type of Review: Extension.

Agency: Wage and Hour Division.

Title: Work Study Program of the Child Labor Regulations.

OMB Control Number: 1235–0024.

Affected Public: Business or other for-profit, Not-for-profit institutions, Farms,

Federal, State, Local, or Tribal Government.

Total Respondents:

WSP Applications: 10.

Written Participation Agreements: 1,000.

Total Annual Responses:

WSP Applications: 10.

Written Participation Agreements: 1,000.

Estimated Total Burden Hours: 528.

Estimated Time per Response:

WSP Application: 121 minutes.

Written Participation Agreements: 31 minutes.

Frequency: On occasion.

Total Burden Cost (capital/startup): $0.

Dated: March 12, 2024.

Daniel Navarrete,

Acting Director, Division of Regulations, Legislation, and Interpretation.

[FR Doc. 2024–05647 Filed 3–15–24; 8:45 am]

BILLING CODE 4510–27–P

DEPARTMENT OF LABOR

Office of Workers' Compensation Programs

Proposed Revision of Existing Collection; Longshore and Harbor Workers' Compensation Act Notice of Payments (LS–208)

AGENCY: Division of Federal Employees', Longshore and Harbor Workers' Compensation (DFELHWC), Office of Workers' Compensation Programs, Department of Labor.

ACTION: Request for public comments.

SUMMARY: The Department of Labor (DOL), as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance request for comment to provide the general public and Federal agencies with an opportunity to comment on proposed collections of information in accordance with the Paperwork Reduction Act of 1995. This request helps to ensure that: requested data can be provided in the desired format; reporting burden (time and financial resources) is minimized; collection instruments are clearly understood; and the impact of collection requirements on respondents can be properly assessed. OWCP/DFELHWC is soliciting comments on the information collection for ''Notice of Payments (LS–208).''

DATES: Consideration will be given to all written comments received by May 17, 2024.

ADDRESSES: You may submit comment as follows. Please note that late, untimely filed comments will not be considered.

Written/Paper Submissions: Submit written/paper submissions in the following way:

- *Mail/Hand Delivery:* Mail or visit DOL–OWCP/DFELHWC, Office of Workers' Compensation Programs, Division of Federal Employees' Longshore and Harbor Workers' Compensation, U.S. Department of Labor, 200 Constitution Ave. NW, Room S3323, Washington, DC 20210.
- OWCP/DFELHWC will post your comment as well as any attachments, except for information submitted and marked as confidential, in the docket at *https://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Contact Anjanette Suggs, Office of Workers' Compensation Programs, Division of Federal Employees', Longshore and Harbor Workers' Compensation, OWCP/DFELHWC at *suggs.anjanette@dol.gov* (email); or (202) 354–9660.

SUPPLEMENTARY INFORMATION:

I. Background

The Office of Workers' Compensation Programs administers the Longshore and Harbor Workers' Compensation Act. The Act provides benefits to workers injured in maritime employment on the navigable waters of the United States or in an adjoining area customarily used by an employer in loading, unloading, repairing, or building a vessel. In addition, several acts extend the Longshore Act's coverage to certain other employees. Legal authority for this information collection is found at 33 U.S.C. 930(a) and (b). Under sections 914(b) & (c) of the Longshore Act, a self-insured employer or insurance carrier is required to pay compensation within 14 days after the employer has knowledge of the injury or death and immediately notify the district director of the payment. Under Section 914(g), the employer/carrier is required to issue notification of final payment of compensation. Form LS–208 has been designated as the proper form on which report of those payments is to be made. Legal authority for this information collection is found at 33 U.S.C. 914(b), (c) & (g). Regulatory authority is found at 20 CFR 702.234.

II. Desired Focus of Comments

The OWCP/DFELHWC is soliciting comments concerning the proposed information collection request (ICR) titled, ''Notice of Payment (LS–208).''

OWCP/DFELHWC is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.
- Evaluate the accuracy of OWCP/DFELHWC's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used in the estimate.
- Suggest methods to enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Background documents related to this information collection request are available at *https://regulations.gov* and at DOL–OWCP/DFELHWC located at 200 Constitution Ave. NW, Room S3323, Washington, DC 20210. Questions about the information collection requirements may be directed to the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

III. Current Actions

This information collection request concerns the ''Notice of Payments (LS–208).'' OWCP/DFELHWC has updated the data with respect to the number of respondents, responses, burden hours, and burden costs supporting this information collection request from the previous information collection request.

Type of Review: Revision of currently approved collection.

Agency: DOL–Office of Workers' Compensation Programs, Division of Federal Employees', Longshore and Harbor Workers' Compensation, OWCP/DFELHWC.

OMB Control Number: 1240–0041.

Affected Public: Private Sector.

Number of Respondents: 550.

Frequency: On occasion.

Number of Responses: 33,000.

Annual Burden Hours: 5,500 hours.

Annual Respondent or Recordkeeper Cost: $3,630.

OWCP Forms: Form LS–208, Notice of Payments.

Comments submitted in response to this notice will be summarized in the request for Office of Management and Budget approval of the proposed information collection request; they will become a matter of public record and will be available at *https://www.reginfo.gov.*

Authority: 44 U.S.C. 3506(c)(2)(A).

Anjanette Suggs,

Agency Clearance Officer.

[FR Doc. 2024–05643 Filed 3–15–24; 8:45 am]

BILLING CODE 4510–CF–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Office of Government Information Services

[NARA–2024–023]

Chief Freedom of Information Act Officers Council Meeting

AGENCY: Office of Government Information Services (OGIS), National Archives and Records Administration (NARA) and Office of Information Policy (OIP), U.S. Department of Justice (DOJ).

ACTION: Notice of meeting.

SUMMARY: We are announcing a meeting of the Chief Freedom of Information Act (FOIA) Officers Council, co-chaired by the Director of OGIS and the Director of OIP.

DATES: The meeting will be on Wednesday, April 17, 2024, from 10 a.m. to 12:30 p.m. EDT. Please register for the meeting no later than 11:59 p.m. EDT on Monday, April 15, 2023 (registration information is detailed below).

ADDRESSES: The April 17, 2024, meeting will be a virtual meeting. We will send access instructions to those who register according to the instructions below.

FOR FURTHER INFORMATION CONTACT: Martha Murphy, by email at *ogis@nara.gov* with the subject line ''Chief FOIA Officers Council,'' or by telephone at 202–741–5770.

SUPPLEMENTARY INFORMATION: This meeting is open to the public in accordance with the Freedom of Information Act (5 U.S.C. 552(k)). Additional details about the meeting, including the agenda, will be available on the Chief FOIA Officers Council website at *https://www.foia.gov/chief-foia-officers-council.*

Procedures: The virtual meeting is open to the public. If you wish to offer oral public statements during the public comment period, you must register in advance through Eventbrite at *https://www.eventbrite.com/e/chief-foia-officers-council-meeting-april-17-2024-tickets-853888231687.* You must provide an email address so that we can provide you with information to access the meeting online. Public comments will be limited to three minutes per individual. We will also live-stream the meeting on the National Archives YouTube channel, *https://www.youtube.com/watch?v=LQyY4O8Mc6s,* and include a captioning option. To request additional accommodations (*e.g.,* a transcript), email *ogis@nara.gov* or call 202–741–5770. Members of the media who wish to register, those who are unable to register online, and those who require special accommodations, should contact Martha Murphy (contact information listed above).

Dated: March 11, 2024.

Alina M. Semo,

Director, Office of Government Information Services.

[FR Doc. 2024–05673 Filed 3–15–24; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities: Comment Request; Computer Science for All—Evaluation and Systematic Review of Grantee Documents

AGENCY: National Science Foundation.

ACTION: Submission for OMB review; comment request.

SUMMARY: The National Science Foundation (NSF) has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1995. This is the second notice for public comment; the first was published in the **Federal Register**, and no comments were received. NSF is forwarding the proposed submission to the Office of Management and Budget (OMB) for clearance simultaneously with the publication of this second notice.

DATES: 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: Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 2415 Eisenhower Avenue, Alexandria, Virginia 22314; telephone (703) 292–7556; or send email to *splimpto@nsf.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, which is accessible 24 hours a day, 7 days a week, 365 days a year (including Federal holidays).

SUPPLEMENTARY INFORMATION:

Comments: Comments regarding (a) whether the proposed collection of information is necessary for the proper performance of the functions of the NSF, including whether the information shall have practical utility; (b) the accuracy of the NSF's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, use, and clarity of the information on respondents; and (d) 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 should be addressed to the points of contact in the **FOR FURTHER INFORMATION CONTACT** section.

Copies of the submission may be obtained by calling 703–292–7556. NSF 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.

Title of Collection: Computer Science for All—Evaluation and Systematic Review of Grantee Documents.

OMB Number: 3145–NEW.

Type of Request: Intent to seek approval to establish an information collection for post-award output and outcome monitoring system.

Abstract

Computer Science for All Researcher Practitioner Partnership (RPP) grantees are required to submit Annual Reports and Project Outcome reports to NSF that summarize the outputs, outcomes, and impact of their funded work. NSF is required by Congress to demonstrate the long-term outcomes for the CSforAll RPP initiative, defined as those that occur at least 5 years since grantees received funding. the first year where these long-term outcomes can be documented for the first CSforAll RPP cohort, funded in 2017, was 2023. This multi-year evaluation is focused on documenting the long-term outcomes for the first three cohorts of the initiative—2017, 2018, and 2019. There are a total of 73 funded grants from the three cohorts. To effectively extract and analyze the needed information to document long-term outcomes for these

73 RPP grants, a systematic review of all grantee reports of outputs, outcomes, and impacts will be conducted, following these steps:

Develop a document review form. The researchers conducting the evaluation of these long-term outcomes for the three cohorts of grantees will develop and use a document review form that will include fields for recording information needed for this evaluation, guided by the required outputs, outcomes, and impacts that NSF must document in a report to Congress. The form will include all information that the researchers were able to glean from the grantees' reports and will highlight where information is missing about each grant's outputs and outcomes during the period of performance, and up to at least 5 years after the grant was funded. The review form will focus on the relevant outputs, outcomes, and impacts related to each of the three strands of the CSforAll RPPs initiative (preK–8, high school, and multi-grade pathways) to document the long-term outcomes for each of those strands.

Review all grantee documents using the review form. The document review form will be completed and compiled by trained researchers who conduct a primary and secondary review of all relevant grantee documents related to the funded RPP, including the grantees' reports to NSF, as well as any related publications and websites, to help ensure thoroughness, consistency, and accuracy. The researchers will document all outputs, outcomes, and impacts they can find in their document reviews. These will be aligned with the list of required outputs, outcomes, and impacts that NSF must report to Congress (*e.g.,* number and demographics of teachers, number and demographics of students served by the grant).

Produce grantee profile memos for grantee verification. After the researchers complete the document review forms for each funded RPP grant to the best of their ability, the information will be summarized in a memo to be shared with each grantee for their review and to gather any missing information. PIs will be asked to provide any missing information, focused on known outputs, outcomes, and impacts up to at least 5 years after funding was received. After they have had time to review the form and gather the missing information, each PI will be invited to participate in 30–60 minute interview conducted via videoconferencing. The interview will be conducted by a member of the research team, with the purpose of confirming the outputs, outcomes, and impacts in the document review form, and following up with any remaining questions about the impact of the grant on preK—12 computer science education in the education systems that were served by the grant.

Finalize grantee-provided data and identify additional primary data collections. Any additional information provided by grantees will be added to the review document forms to finalize existing grantee data and to determine what additional data are needed to address research questions, the most appropriate method for collecting that information (*e.g.,* surveys, interviews, focus groups), and from whom (*e.g.,* district or school administration, teachers). Because this evaluation project involves providing NSF with insights about other relevant outcomes and impacts they may not have anticipated for this evaluation, the information collected from grantees' completion of the document review form and their interviews will be used to identify those additional outcomes and impacts.

Use of the Information

Much of the data needed for this collection will come from a review of the Annual Reports, Final Reports, Evaluation Reports, and Project Outcome Reports that grantees are required to submit to NSF. After a systematic review of all grantee documents for the 73 funded grants, necessary information will be extracted from the documents and reviewed by grantee PIs, following the steps outlined in the abstract.

ESTIMATE OF PUBLIC BURDEN

Collection title	Number of respondents	Annual number of responses/respondent	Annual hour burden
Verification of Document Review Form Information by RPP Grantees.	72 grantee PIs	2 (1 hour for document review and up to 1 hour for follow-up call).	144

Respondents

The respondents are the Principal Investigator and/or program evaluator of each grant. They will be asked to review their grantee-specific memo, determine whether their data are accurately represented, and provide any additional available information during a 30–60-minute call.

Estimates of Annualized Cost to Respondents for the Hour Burdens

The overall annualized cost to the respondents is estimated to be $8,085.48. The following table shows the annualized estimate of costs to PIs/designee respondents, who are generally university research faculty members. This estimated hourly rate is based on the Bureau of Labor Statistics' Occupational Employment and Wage Statistics from May 2022, for ''Education Administrators, Postsecondary.'' According to these estimates, the mean hourly wage for a postsecondary education administrator was $55.38.

Respondent type	Number of respondents	Burden hours per respondent	Average hourly rate	Estimated annual cost
Grantees/PIs	72	2	$55.38	$8,085.48
Total	72	.....	.....	8,085.48

Source: *https://www.bls.gov/oes/current/oes119033.htm.*

Estimated Number of Responses per Report

Data collection involves all 72 grantees for the funded CSforAll RPP grants in the 2017, 2018, and 2019 cohorts.

Dated: March 13, 2024.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2024–05698 Filed 3–15–24; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2024–0001]

Sunshine Act Meetings

TIME AND DATE: Weeks of March 18, 25, and April 1, 8, 15, 22, 2024. The schedule for Commission meetings is subject to change on short notice. The NRC Commission Meeting Schedule can be found on the internet at: *https://www.nrc.gov/public-involve/public-meetings/schedule.html.*

PLACE: The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.,* braille, large print), please notify Anne Silk, NRC Disability Program Specialist, at 301–287–0745, by videophone at 240–428–3217, or by email at *Anne.Silk@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

STATUS: Public.

Members of the public may request to receive the information in these notices electronically. If you would like to be added to the distribution, please contact the Nuclear Regulatory Commission, Office of the Secretary, Washington, DC 20555, at 301–415–1969, or by email at *Betty.Thweatt@nrc.gov* or *Samantha.Miklaszewski@nrc.gov.*

MATTERS TO BE CONSIDERED:

Week of March 18, 2024

There are no meetings scheduled for the week of March 18, 2024.

Week of March 25, 2024—Tentative

There are no meetings scheduled for the week of March 25, 2024.

Week of April 1, 2024—Tentative

There are no meetings scheduled for the week of April 1, 2024.

Week of April 8, 2024—Tentative

Tuesday, April 9, 2024

10:00 a.m. Meeting with Advisory Committee on the Medical Uses of Isotopes (Public Meeting) (Contact: Wesley Held: 301–287–3591)

Additional Information: The meeting will be held in the Commissioners' Hearing Room, 11555 Rockville Pike, Rockville, Maryland. The public is invited to attend the Commission's meeting in person or watch live via webcast at the Web address—*https://video.nrc.gov/.*

Week of April 15, 2024—Tentative

There are no meetings scheduled for the week of April 15, 2024.

Week of April 22, 2024—Tentative

Tuesday, April 23, 2024

9:00 a.m. Strategic Programmatic Overview of the Fuel Facilities and the Spent Fuel Storage and Transportation Business Lines (Public Meeting) (Contact: Wesley Held: 301–287–3591)

Additional Information: The meeting will be held in the Commissioners' Hearing Room, 11555 Rockville Pike, Rockville, Maryland. The public is invited to attend the Commission's meeting in person or watch live via webcast at the Web address—*https://video.nrc.gov/.*

CONTACT PERSON FOR MORE INFORMATION: For more information or to verify the status of meetings, contact Wesley Held at 301–287–3591 or via email at *Wesley.Held@nrc.gov.*

The NRC is holding the meetings under the authority of the Government in the Sunshine Act, 5 U.S.C. 552b.

Dated: March 13, 2024.

For the Nuclear Regulatory Commission.

Wesley W. Held,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2024–05752 Filed 3–14–24; 11:15 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket No. CP2020–169]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning a negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* March 19, 2024.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the Market Dominant or the Competitive product list, or the modification of an existing product currently appearing on the Market Dominant or the Competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3011.301.[1]

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern Market Dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3030, and 39 CFR part 3040, subpart B. For request(s)

[1] *See* Docket No. RM2018–3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19–22 (Order No. 4679).

that the Postal Service states concern Competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3035, and 39 CFR part 3040, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s).:* CP2020–169; *Filing Title:* Notice of United States Postal Service of Modification to Inbound Competitive Multi-Service Prime Agreement; *Filing Acceptance Date:* March 11, 2024; *Filing Authority:* 39 CFR 3035.105; *Public Representative:* Samuel Robinson; *Comments Due:* March 19, 2024.

This Notice will be published in the **Federal Register**.

Erica A. Barker,

Secretary.

[FR Doc. 2024–05641 Filed 3–15–24; 8:45 am]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99723; File No. SR–CboeBZX–2024–020]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fee Schedule Regarding Add Volume Tiers

March 12, 2024.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 1, 2024, Cboe BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') proposes to amend its Fee Schedule. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/equities/regulation/rule_filings/BZX/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Fee Schedule applicable to its equities trading platform (''BZX Equities'') by modifying the criteria of certain Add Volume Tiers. The Exchange proposes to implement these changes effective March 1, 2024.

The Exchange first notes that it 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. More specifically, the Exchange is only one of 16 registered equities exchanges, as well as a number of alternative trading systems and other off-exchange venues that do not have similar self-regulatory responsibilities under the Securities Exchange Act of 1934 (the ''Act''), to which market participants may direct their order flow. Based on publicly available information,[3] no single registered equities exchange has more than 16% of the market share. Thus, in such a low-concentrated and highly competitive market, no single equities exchange possesses significant pricing power in the execution of order flow. The Exchange in particular operates a ''Maker-Taker'' model whereby it pays rebates to members that add liquidity and assesses fees to those that remove liquidity. The Exchange's Fee Schedule sets forth the standard rebates and rates applied per share for orders that provide and remove liquidity, respectively. Currently, for orders in securities priced at or above $1.00, the Exchange provides a standard rebate of $0.00160 per share for orders that add liquidity and assesses a fee of $0.0030 per share for orders that remove liquidity.[4] For orders in securities priced below $1.00, the Exchange provides a standard rebate of $0.00009 per share for orders that add liquidity and assesses a fee of 0.30% of the total dollar value for orders that remove liquidity.[5] Additionally, in response to the competitive environment, the Exchange also offers tiered pricing which provides Members opportunities to qualify for higher rebates or reduced fees where certain volume criteria and thresholds are met. Tiered pricing provides an incremental incentive for Members to strive for higher tier levels, which provides increasingly higher benefits or discounts for satisfying increasingly more stringent criteria.

Add/Remove Volume Tiers

Under footnote 1 of the Fee Schedule, the Exchange offers various Add/Remove Volume Tiers. In particular, the Exchange offers seven Add Volume Tiers that provide enhanced rebates for orders yielding fee codes B,[6] V[7] and Y[8] where a Member reaches certain add volume-based criteria. The Exchange now proposes to modify the criteria of Add Volume Tiers 1–3 and Add Volume Tiers 5–7 by revising the share amount in the second prong of criteria. The current criteria for Add Volume Tiers 1–3 and Add Volume Tiers 5–7 is as follows:

- Add Volume Tier 1 provides a rebate of $0.0020 per share in securities priced at or above $1.00 to qualifying orders (*i.e.,* orders yielding fee codes B, V, or Y) where a Member has an ADAV[9] as a percentage of TCV[10] ≥0.05% or Member has an ADAV ≥5,000,000.
- Add Volume Tier 2 provides a rebate of $0.0023 per share in securities priced at or above $1.00 to qualifying orders (*i.e.,* orders yielding fee codes B,

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Cboe Global Markets, U.S. Equities Market Volume Summary, Month-to-Date (February 23, 2024), available at *https://www.cboe.com/us/equities/_statistics/.*

[4] *See* BZX Equities Fee Schedule, Standard Rates.

[5] *Id.*

[6] Fee code B is appended to displayed orders that add liquidity to BZX in Tape B securities.

[7] Fee code V is appended to displayed orders that add liquidity to BZX in Tape A securities.

[8] Fee code Y is appended to displayed orders that add liquidity to BZX in Tape C securities.

[9] ''ADAV'' means average daily added volume calculated as the number of shares added per day. ADAV is calculated on a monthly basis.

[10] ''TCV'' means total consolidated volume calculated as the volume reported by all exchanges and trade reporting facilities to a consolidated transaction reporting plan for the month for which the fees apply.

V, or Y) where a Member has an ADAV as a percentage of TCV ≥0.20% or Member has an ADAV ≥20,000,000.

• Add Volume Tier 3 provides a rebate of $0.0027 per share in securities priced at or above $1.00 to qualifying orders (*i.e.,* orders yielding fee codes B, V, or Y) where a Member has an ADAV as a percentage of TCV ≥0.30% or Member has an ADAV ≥30,000,000.

• Add Volume Tier 5 provides a rebate of $0.0029 per share in securities priced at or above $1.00 to qualifying orders (*i.e.,* orders yielding fee codes B, V, or Y) where a Member has an ADAV as a percentage of TCV ≥0.35% or Member has an ADAV ≥35,000,000.

• Add Volume Tier 6 provides a rebate of $0.0030 per share in securities priced at or above $1.00 to qualifying orders (*i.e.,* orders yielding fee codes B, V, or Y) where a Member has an ADAV as a percentage of TCV ≥0.60% or Member has an ADAV ≥60,000,000.

• Add Volume Tier 7 provides a rebate of $0.0031 per share in securities priced at or above $1.00 to qualifying orders (*i.e.,* orders yielding fee codes B, V, or Y) where a Member has an ADAV as a percentage of TCV ≥1.00% or Member has an ADAV ≥100,000,000.

The proposed criteria for Add Volume Tiers 1–3 and Add Volume Tiers 5–7 is as follows:

• Add Volume Tier 1 provides a rebate of $0.0020 per share in securities priced at or above $1.00 to qualifying orders (*i.e.,* orders yielding fee codes B, V, or Y) where a Member has an ADAV as a percentage of TCV ≥0.05% or Member has an ADAV ≥6,000,000.

• Add Volume Tier 2 provides a rebate of $0.0023 per share in securities priced at or above $1.00 to qualifying orders (*i.e.,* orders yielding fee codes B, V, or Y) where a Member has an ADAV as a percentage of TCV ≥0.20% or Member has an ADAV ≥23,000,000.

• Add Volume Tier 3 provides a rebate of $0.0027 per share in securities priced at or above $1.00 to qualifying orders (*i.e.,* orders yielding fee codes B, V, or Y) where a Member has an ADAV as a percentage of TCV ≥0.30% or Member has an ADAV ≥35,000,000.

• Add Volume Tier 5 provides a rebate of $0.0029 per share in securities priced at or above $1.00 to qualifying orders (*i.e.,* orders yielding fee codes B, V, or Y) where a Member has an ADAV as a percentage of TCV ≥0.35% or Member has an ADAV ≥40,000,000.

• Add Volume Tier 6 provides a rebate of $0.0030 per share in securities priced at or above $1.00 to qualifying orders (*i.e.,* orders yielding fee codes B, V, or Y) where a Member has an ADAV as a percentage of TCV ≥0.60% or Member has an ADAV ≥70,000,000.

• Add Volume Tier 7 provides a rebate of $0.0031 per share in securities priced at or above $1.00 to qualifying orders (*i.e.,* orders yielding fee codes B, V, or Y) where a Member has an ADAV as a percentage of TCV ≥1.00% or Member has an ADAV ≥115,000,000.

The proposed modifications to Add Volume Tiers 1–3 and Add Volume Tiers 5–7 represents a modest increase in difficulty of one prong of criteria to achieve the applicable tier threshold while maintaining an existing prong of criteria and the existing rebates. The Exchange believes that the proposed criteria continues to be commensurate with the rebate received for each tier and will encourage Members to grow their volume on the Exchange. Increased volume on the Exchange contributes to a deeper and more liquid market, which benefits all market participants and provides greater execution opportunities 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.[11] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [12] 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) [13] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers as well as Section 6(b)(4) [14] as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities.

As described 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 Exchange believes that its proposal to modify Add Volume Tiers 1–3 and Add Volume Tiers 5–7 reflects a competitive pricing structure designed to incentivize market participants to direct their order flow to the Exchange, which the Exchange believes would enhance market quality to the benefit of all Members. Additionally, the Exchange notes that relative volume-based incentives and discounts have been widely adopted by exchanges,[15] including the Exchange,[16] and are reasonable, equitable and non-discriminatory because they are open to all Members on an equal basis and provide additional benefits or discounts that are reasonably related to (i) the value to an exchange's market quality and (ii) associated higher levels of market activity, such as higher levels of liquidity provision and/or growth patterns. Competing equity exchanges offer similar tiered pricing structures, including schedules or rebates and fees that apply based upon members achieving certain volume and/or growth thresholds, as well as assess similar fees or rebates for similar types of orders, to that of the Exchange.

In particular, the Exchange believes its proposal to modify Add Volume Tiers 1–3 and Add Volume Tiers 5–7 is reasonable because the revised tiers will be available to all Members and provide all Members with an opportunity to receive an enhanced rebate. The Exchange further believes the proposed modification to Add Volume Tiers 1–3 and Add Volume Tiers 5–7 will provide a reasonable means to encourage liquidity adding displayed orders in Members' order flow to the Exchange and to incentivize Members to continue to provide liquidity adding volume to the Exchange by offering them an opportunity to receive an enhanced rebate on qualifying orders. An overall increase in activity would deepen the Exchange's liquidity pool, offer additional cost savings, support the quality of price discovery, promote market transparency and improve market quality, for all investors.

The Exchange believes that the proposed changes to Add Volume Tiers 1–3 and Add Volume Tiers 5–7 are reasonable as they do not represent a significant departure from the criteria currently offered in the Fee Schedule. The Exchange also believes that the proposal represents an equitable

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(5).

[13] *Id.*

[14] 15 U.S.C. 78f(b)(4).

[15] *See e.g.,* EDGX Equities Fee Schedule, Footnote 1, Add/Remove Volume Tiers.

[16] *See e.g.,* BZX Equities Fee Schedule, Footnote 1, Add/Remove Volume Tiers.

allocation of fees and rebates and is not unfairly discriminatory because all Members continue to be eligible for the proposed Add Volume Tiers 1–3 and Add Volume Tiers 5–7 and have the opportunity to meet the tiers' criteria and receive the corresponding enhanced rebate if such criteria is met. Without having a view of activity on other markets and off-exchange venues, the Exchange has no way of knowing whether this proposed rule change would definitely result in any Members qualifying for proposed Add Volume Tiers 1–3 and Add Volume Tiers 5–7. While the Exchange has no way of predicting with certainty how the proposed changes will impact Member activity, based on the prior month's volume, the Exchange anticipates that at least two Members will be able to satisfy proposed Add Volume Tier 1, at least two Members will be able to satisfy proposed Add Volume Tier 2, no Members will be able to satisfy proposed Add Volume Tier 3, at least three Members will be able to satisfy proposed Add Volume Tier 5, at least one Member will be able to satisfy proposed Add Volume Tier 6, and no Members will be able to satisfy proposed Add Volume Tier 7. The Exchange also notes that proposed changes will not adversely impact any Member's ability to qualify for enhanced rebates offered under other tiers. Should a Member not meet the proposed new criteria, the Member will merely not receive that corresponding enhanced rebate.

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. Rather, as discussed above, the Exchange believes that the proposed change would encourage the submission of additional order flow to a public exchange, thereby promoting market depth, execution incentives and enhanced execution opportunities, as well as price discovery and transparency for all Members. As a result, the Exchange believes that the proposed changes further the Commission's goal in adopting Regulation NMS of fostering competition among orders, which promotes ''more efficient pricing of individual stocks for all types of orders, large and small.''

The Exchange believes the proposed rule changes do not impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. Particularly, the proposed modifications to Add Volume Tiers 1–3 and Add Volume Tiers 5–7 will apply to all Members equally in that all Members are eligible for the modified tiers, have a reasonable opportunity to meet the proposed tiers' criteria and will receive the enhanced rebate on their qualifying orders if such criteria is met. The Exchange does not believe the proposed changes burden competition, but rather, enhance competition as they are intended to increase the competitiveness of BZX by amending existing pricing incentives in order to attract order flow and incentivize participants to increase their participation on the Exchange, providing for additional execution opportunities for market participants and improved price transparency. Greater overall order flow, trading opportunities, and pricing transparency benefits all market participants on the Exchange by enhancing market quality and continuing to encourage Members to send orders, thereby contributing towards a robust and well-balanced market ecosystem.

Next, the Exchange believes the proposed rule changes does not impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. As previously discussed, the Exchange operates in a highly competitive market. Members have numerous alternative venues that they may participate on and direct their order flow, including other equities exchanges, off-exchange venues, and alternative trading systems. Additionally, the Exchange represents a small percentage of the overall market. Based on publicly available information, no single equities exchange has more than 16% of the market share.[17] Therefore, no exchange possesses significant pricing power in the execution of order flow. Indeed, participants can readily choose to send their orders to other exchange and off-exchange venues if they deem fee levels at those other venues to be more favorable. Moreover, the Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [18] The fact that this market is competitive has also long been recognized by the courts. In *NetCoalition* v. *Securities and Exchange Commission*, the D.C. Circuit stated as follows: ''[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers'. . . .''.[19] Accordingly, the Exchange does not believe its proposed fee change imposes any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [20] and paragraph (f) of Rule 19b–4 [21] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act.

[17] *Supra* note 3.

[18] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

[19] *NetCoalition* v. *SEC*, 615 F.3d 525, 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782–83 (December 9, 2008) (SR–NYSEArca–2006–21)).

[20] 15 U.S.C. 78s(b)(3)(A).

[21] 17 CFR 240.19b–4(f).

Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–CboeBZX–2024–020 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–CboeBZX–2024–020. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–CboeBZX–2024–020 and should be submitted on or before April 8, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024–05635 Filed 3–15–24; 8:45 am]

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[22] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99719; File No. SR–NYSE–2024–13]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing of Proposed Rule Change for Amendments to Rule 7.35 and Rule 7.35B

March 12, 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 March 1, 2024, New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes amendments to Rule 7.35 (General) and Rule 7.35B (DMM-Facilitated Closing Auctions) to align the definition of Imbalance Reference Price for a Closing Imbalance; replace the Regulatory Closing Imbalance with an enhanced Significant Closing Imbalance; and include Closing D Orders in the Total Imbalance calculation ten minutes before the scheduled end of Core Trading Hours. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The exchange proposes amendments to Rule 7.35 (General) and Rule 7.35B (DMM-Facilitated Closing Auctions) to align the definition of Imbalance Reference Price for a Closing Imbalance; replace the Regulatory Closing Imbalance with an enhanced Significant Closing Imbalance; and include Closing D Orders in the Total Imbalance calculation ten minutes before the scheduled end of Core Trading Hours.

The proposed changes would enhance the imbalance information that the Exchange publishes going into the Closing Auction, thereby promoting greater transparency in the Closing Auction process and the Exchange's marketplace. Specifically, the Exchange would replace the Regulatory Closing Imbalance publication based on static criteria with a ''Significant Closing Imbalance'' based on elastic criteria based on the recent average close size of the security and the notional value of the imbalance. Similarly, the Exchange would include Closing D Orders in the Closing Auction Imbalance Information at their undisplayed discretionary price ten minutes before the end of Core Trading Hours, five minutes earlier than currently. The proposed change would also be reflected in the definition of Paired and Unpaired Quantity, which for the Closing Auction would include Closing D Orders ten minutes before the scheduled end of Core Trading Hours.

Finally, the Exchange would align the definition of ''Imbalance Reference Price'' for a Closing Imbalance with that utilized for Imbalance Reference Price for the Closing Auction Imbalance Information in Rule 7.35B(e)(3).

Background

Imbalance information on the Exchange means better-priced orders on one side of the market compared to both better-priced and at-price orders on the other side of the market. The Exchange disseminates two types of Imbalance publications: Total Imbalance and Closing Imbalance. Total Imbalance information is disseminated for all Auctions, and Closing Imbalance information is disseminated for the Closing Auction only.

Beginning ten minutes before the scheduled end of Core Trading Hours, the Exchange begins disseminating through its proprietary data feed Closing Auction Imbalance Information that is calculated based on the interest eligible

to participate in the Closing Auction.[4] The Closing Auction Imbalance Information includes the Continuous Book Clearing Price, which is the price at which all better-priced orders eligible to trade in the Closing Auction on the Side of the Imbalance can be traded.[5] The Closing Auction Imbalance Information also includes an Imbalance Reference Price, which is the Exchange Last Sale Price bound by the Exchange BBO.[6]

Beginning five minutes before the end of Core Trading Hours, Closing D Orders are included in the Closing Auction Imbalance Information at their undisplayed discretionary price.[7] The Closing Auction Imbalance Information is updated at least every second, unless there is no change to the information, and is disseminated until the Closing Auction begins.[8] In addition, if at the Closing Auction Imbalance Freeze Time (*e.g.,* 3:50 p.m. Eastern Time) [9] the Closing Imbalance [10] is 500 round lots or more, the Exchange will disseminate a Regulatory Closing Imbalance to both the securities information processor and proprietary data feeds.[11]

Proposed Rule Change

The proposed amendments to Rule 7.35 and Rule 7.35B are the latest in a series of enhancements the Exchange has made to the transparency of its marketplace since 2008.[12] As noted, the proposal would enhance the imbalance information that the Exchange publishes going into the Closing Auction, one of the most critical periods in the trading day. The Exchange's Closing Auction is a recognized industry reference point,[13] and member organizations and the investing public receive substantial benefits from increased liquidity at the close and high levels of executions at the Exchange's closing price on a daily basis. Indeed, given today's fragmented marketplace,[14] the centralized liquidity available during the Closing Auction is essential for price discovery and the stability and transparency of the marketplace.

Significant Closing Imbalance

The Exchange currently publishes a Regulatory Closing Imbalance at the Closing Auction Imbalance Freeze Time if the Closing Imbalance is 500 round lots or more. The Exchange would retire the Regulatory Closing Imbalance based on a static round-lot trigger and instead publish a Significant Closing Imbalance based on a dynamic formula that would consider the notional size of the imbalance and the recent closing activity of the relevant security. As proposed, unless determined otherwise by the Exchange and announced by Trader Update, a Closing Imbalance would be considered ''Significant'' if:

- the Closing Imbalance is equal to or greater than 30 percent of the 20-day Average Closing Size for NYSE-listed securities in the S&P 500® Index; 50 percent of the 20-day Average Closing Size for securities in the S&P 400® Index and the S&P 600® Index; or 70 percent of the 20-day Average Closing Size for all other securities,[15] and
- the notional value of the Closing Imbalance, calculated as the product of the imbalance quantity and the reference price, is equal to or greater than $200,000 for S&P and all other securities.[16]

For purposes of calculating the proposed Significant Closing Imbalance, Average Closing Size will be calculated for each symbol based on the most recent 20 trading days where the security closed on a last sale eligible trade. For securities with less than the specified trading data, including but not limited to IPOs, direct listings, and transfers, the Closing Imbalance will be considered Significant if the notional value of the Closing Imbalance, calculated as the product of the imbalance quantity and the reference price, is equal to or greater than $200,000 for S&P and all other securities or an alternative specified dollar amount as determined by the Exchange and announced by Trader Update. Only trading days with an NYSE close will be considered for purposes of the Significant Closing Imbalance calculation.[17]

For example, assume that XYZ is an S&P 400® Index stock with a closing imbalance of 35,000 shares and a reference price of $10.00. Assuming that the 20-day Average Closing Size for XYZ is 100,000 shares, the imbalance would be considered Significant because the current imbalance of 35,000 shares is greater than 30,000 shares, which represents 30% of the 100,000 shares, and the notional value of $350,000 (35,000 shares multiplied by $10.00) is greater than $200,000. However, if XYZ was a non-S&P Index security, the same imbalance would not be considered significant because the 35,000 share imbalance would be less than 70,000 shares, or 70% of 100,000.

To effectuate these changes, the Exchange would replace ''Regulatory'' with ''Significant'' in Rules 7.35 and 7.35B where the phrase ''Regulatory Closing Imbalance'' appears, *i.e.,* in Rule 7.35(a)(4)(A)(ii) and Rule 7.35B(d), (d)(1), (d)(2), (e)(2), and (f)(1)(A) and (B).

The Exchange would also delete current subsections (A), (B), and (C) of Rule 7.35B(d)(1) governing publication of a Regulatory Closing Imbalance and replace them with new subsections (A), (B), and (C) setting forth the proposed

[4] *See* Rule 7.35B(e)(1)(A). DMM Orders, as defined in Rule 7.35(a)(9)(B), that have been entered by the DMM in advance of a Closing Auction are currently included in the Closing Auction Imbalance Information.

[5] *See* Rule 7.35(a)(4)(C). In the case of a buy Imbalance, the Continuous Book Clearing Price would be the highest potential Closing Auction Price and in the case of a sell Imbalance, the Continuous Book Clearing Price would be the lowest potential Closing Auction Price.

[6] *See* Rule 7.35B(e)(3).

[7] *See* Rule 7.35(b)(1)(C)(ii).

[8] *See* Rule 7.35(c)(1) and (2).

[9] *See* Rule 7.35(a)(8) (defining the ''Closing Auction Imbalance Freeze Time'' to be 10 minutes before the scheduled end of Core Trading Hours).

[10] As defined in Rule 7.35(a)(4)(A)(ii), a ''Closing Imbalance'' means the Imbalance of MOC and LOC Orders to buy and MOC and LOC Orders to sell. Rule 7.35(a)(4)(A)(ii) further defines a ''Regulatory Closing Imbalance'' as a Closing Imbalance disseminated at or after the Closing Auction Imbalance Freeze Time.

[11] *See* Rule 7.35B(d)(1).

[12] In 2010, the Exchange began disseminating Closing Auction Imbalance Information beginning ten minutes before the scheduled end of Core Trading Hours, which provides updated imbalance information and indicative closing prices. *See* Securities Exchange Act Release No. 61233 (December 23, 2009), 74 FR 69169 (December 30, 2009) (SR–NYSE–2009–111) (Approval Order) (''Closing Filing''). *See also* Securities Exchange Act Release No. 61616 (March 1, 2010), 75 FR 10533 (March 8, 2010) (SR–NYSE–2010–12) (Notice of Filing of Extension of Implementation Date of the Closing Filing). In 2019, in connection with the transition to the Pillar trading platform, the Exchange amended its rules to include Floor Broker Interest (*i.e.,* interest verbalized in the trading crowd by a Floor broker) in Closing Auction Imbalance Information. In 2020, the Exchange temporarily suspended the availability of Floor Broker Interest to be eligible to participate in the Closing Auction, as defined in Rule 7.35, and in 2021, permanently excluded Floor Broker Interest from the Closing Auction and required all Floor brokers to enter orders for the Closing Auction electronically during Core Trading Hours. *See* Securities Exchange Act Release No. 92480 (July 23, 2021), 86 FR 40886 (July 29, 2021) (SR–NYSE–2020–95). In 2022, the Exchange made further changes to the Closing Auction, including adding price parameters within which the DMM must select a Closing Auction Price, in order to make the Closing Auction more transparent and deterministic. *See* Securities Exchange Act Release No. 95691 (September 7, 2022), 87 FR 56099 (September 13, 2022) (SR–NYSE–2022–32).

[13] For example, the pricing and valuation of certain indices, funds, and derivative products require primary market prints.

[14] While Regulation NMS has enhanced competition, it has also fostered a ''fragmented'' market structure where trading in a single stock can occur across multiple trading centers. When multiple trading centers compete for order flow in the same stock, the Commission has recognized that ''such competition can lead to the fragmentation of order flow in that stock.'' *See* Securities Exchange Act Release No. 61358, 75 FR 3594, 3597 (January 21, 2010) (File No. S7–02–10) (Concept Release on Equity Market Structure).

[15] *See* proposed Rule 7.35B(d)(1)(A).

[16] *See id.* at (B).

[17] *See id.* at (C).

formula for what constitutes a ''Significant'' imbalance. Current Rule 7.35B(d)(1)(B), providing that a Regulatory Closing Imbalance is a one-time publication that should not be updated, would be retained in proposed Rule 7.35B(d)(1)(D). The information in current Rule 7.35B(d)(1)(C), providing that a Regulatory Closing Imbalance will be disseminated at the Closing Auction Imbalance Freeze Time regardless of whether the security has not opened or is halted or paused at that time, would be retained in proposed Rule 7.35B(d)(1).

The Exchange believes that publishing imbalance information where the imbalance is of a size that equals or exceeds a large percentage of a security's average closing size over the most recent 20 trading days and is of a high notional value imparts more valuable information to the marketplace about potential trading anomalies or opportunities than an imbalance publication based solely on an imbalance size of 500 round lots or more. As a result, the Exchange believes that publication of Significant Closing Imbalance information as proposed could facilitate entry of offsetting orders and the price discovery process on the Exchange, to the benefit of the marketplace and public investors. In addition, the Exchange believes that it would be appropriate to retain flexibility to determine the percentage amounts and notional value in the formula for what constitutes a Significant Closing Imbalance so that the Exchange may timely take into consideration market movements and the changing trading characteristics of different securities.[18]

Imbalance Reference Price

Currently, the Closing Auction Imbalance Information includes the Continuous Book Clearing Price, which is the price at which all better-priced orders eligible to trade in the Closing Auction on the Side of the Imbalance can be traded.[19] The Closing Auction Imbalance Information also includes an Imbalance Reference Price, which is the Exchange Last Sale Price bound by the Exchange BBO.[20] The Imbalance Reference Price for a Closing Imbalance is currently the Exchange Last Sale Price.[21]

In order to provide the most accurate imbalance information, the Exchange proposes to align the definition of Imbalance Reference Price for a Closing Imbalance in Rule 7.35B(d) with the current definition of Imbalance Reference Price for the Closing Auction Imbalance Information in Rule 7.35B(e)(3). As proposed, the Imbalance Reference Price for a Closing Imbalance would be equal to

- the BB if the Exchange Last Sale Price is lower than the BB;
- the BO if the Exchange Last Sale Price is higher than the BO; or
- the Exchange Last Sale Price if it is at or between the BBO or if the security was halted or not opened by the Closing Auction Imbalance Freeze Time.[22]

The Exchange believes that the proposal will enhance the value of the imbalance publication by providing a more accurate depiction of the market interest available in a security because bounding the Imbalance Reference Price by the BBO keeps the price in line with actual trading in that security.

Closing D Orders

Finally, the Exchange proposes to include Closing D Orders earlier in the imbalance information provided to the marketplace.

As noted above, the Exchange disseminates two types of Imbalance publications: Total Imbalance and Closing Imbalance. Total Imbalance information is disseminated for all Auctions, and Closing Imbalance information is disseminated for the Closing Auction only.

Rule 7.35(a)(4)(A)(i) provides that ''Total Imbalance'' means for the Core Open and Trading Halt Auctions, the Imbalance of all orders eligible to participate in an Auction and for the Closing Auction, the Imbalance of MOC, LOC, and Closing IO Orders, and beginning five minutes before the scheduled end of Core Trading Hours, Closing D Orders.

In addition, for the Closing Auction, the Exchange provides information on the ''Paired Quantity,'' which is the volume of better-priced and at-priced buy shares that can be paired with better-priced and at-priced sell shares at the Imbalance Reference Price, and ''Unpaired Quantity,'' meaning the volume of better-priced and at-priced buy shares that cannot be paired with both at-priced and better-priced sell shares at the Imbalance Reference Price. Paired and Unpaired Quantity as defined in Rule 7.35(a)(4)(B)(ii) to include MOC, LOC, and Closing IO Orders, and beginning five minutes before the scheduled end of Core Trading Hours, Closing D Orders.

Further, Rule 7.35(b) sets forth general rules for how different types of orders are ranked for purposes of how they are included in Auction Imbalance Information or for an Auction allocation. Rule 7.35(b)(1) provides that orders are ranked based on the price at which they would participate in an Auction. The price at which an order would be ranked would be used to determine whether it is a better-priced or an at-priced order. In this regard, beginning five minutes before the end of Core Trading Hours, the ranked price of a Closing D Order is the order's undisplayed discretionary price. In addition, under Rule 7.35(b)(2), the working time of a Closing D Order would be the later of its entry time or five minutes before the end of Core Trading Hours.

The Exchange proposes to amend these rules to reflect the inclusion of Closing D Orders beginning ten minutes before the scheduled end of Core Trading Hours. The Exchange believes that earlier inclusion of this order type in the imbalance information published by the Exchange would enhance the information available to the marketplace leading into the Closing Auction. Closing D Orders—Limit Orders with an instruction to exercise discretion in the Closing Auction up (down) to a designated undisplayed price[23]—are an extremely versatile order type, and the Exchange has observed that an increasing proportion of the Closing Auction is comprised of Closing D Orders.[24] The Exchange believes that including Closing D Orders in its publicly disseminated imbalance information earlier would provide more information to the marketplace about the volume and type of orders going into the Closing Auction as well as

[18] The options markets operated by the Exchange's affiliates have similar flexibility in their rules to specify different parameters based on a Trader Update. *See, e.g.,* NYSE Arca, Inc., Rules 6.62P–O(a)(3)(C) (specifying the thresholds applicable to limit order price protection) & 6.64P–O(c) (specifying interval when Auction Imbalance Information is updated).

[19] *See* Rule 7.35(a)(4)(C). In the case of a buy Imbalance, the Continuous Book Clearing Price would be the highest potential Closing Auction Price and in the case of a sell Imbalance, the Continuous Book Clearing Price would be the lowest potential Closing Auction Price.

[20] *See* Rule 7.35B(e)(3).

[21] *See* Rule 7.35B(d). *See* Rule 7.35(a)(12)(B)(defining ''Exchange Last Sale Price'' to mean the most recent trade on the Exchange of a round lot or more in a security during Core Trading Hours on that trading day, and if none, the Official Closing Price from the prior trading day for that security).

[22] *See* proposed Rule 7.35B(d).

[23] *See* Rule 7.31(c)(2)(C).

[24] For instance, in the third quarter of 2021, D Orders constituted 36.6% of volume in the Closing Auction. As of the third quarter of 2023, D Orders comprised 42.7% of Closing Auction volume, more than any other order type. *See https://www.nyse.com/data-insights/nyse-closing-auction-dynamics-2023.*

additional time for the market to respond to any auction imbalances.

Because of the technology changes associated with the proposed changes, the Exchange proposes that, subject to approval of the proposed rule change, the Exchange will announce the implementation date of the proposed rule changes by Trader Update. Subject to approval of this proposed rule change, the Exchange anticipates that such changes will be implemented before the end of the fourth quarter of 2024.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[25] in general, and furthers the objectives of Section 6(b)(5) of the Act,[26] 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 persons engaged in facilitating transactions in securities, 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 public interest and because it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The proposed changes to Rule 7.35 and Rule 7.35B relating to publication of a Significant Closing Imbalance and inclusion of Closing D Orders in the Exchange's published imbalance five minutes earlier would enhance the imbalance information that the Exchange publishes and the total ''mix'' of information available to the marketplace leading into the Closing Auction, thereby promoting transparency and removing impediments to and perfecting the mechanisms of a free and open market and a national market system.

As noted above, the Exchange would retire a Regulatory Closing Imbalance based on a static round-lot trigger in favor of a Significant Closing Imbalance based on a dynamic formula that would take into account the notional size of the imbalance and the recent closing activity of the impacted security. The Exchange believes that triggering an imbalance publication based on whether the Closing Imbalance equals or exceeds a percentage of the recent 20-day average closing size and a high notional value would provide investors with a more meaningful depiction of the market interest in a security that would assist them in trading the imbalance and the Closing Auction in that security. Further, including Closing D Orders in the Total Imbalance calculation ten minutes before the scheduled end of Core Trading Hours would similarly enhance the information available to investors going into the Closing Auction and could also attract additional contra-side interest, thereby decreasing volatility and ultimately contributing to the maintenance of a fair and orderly market consistent with the protection of investors and the public interest under Section 6(b)(5) of the Act.[27]

Allowing the Exchange the flexibility to determine the percentage amounts and notional value in the formula for what constitutes a Significant Closing Imbalance permits the Exchange to take market movements and the characteristics of different securities into consideration in real-time and update the metrics as needed. The proposal is also consistent with discretion to announce different parameters as circumstances warrant by Trader Update that is available on other exchanges.[28]

Finally, the Exchange believes that determining the Imbalance Reference Price for a Closing Auction in the same way the Exchange currently determines the Imbalance Reference Price for the Closing Auction Imbalance Information would provide a more updated depiction of the market interest available in a security when the Imbalance Reference Price is published because bounding the Imbalance Reference Price by the BBO keeps the price in line with actual trading in that security. The proposal would also promote consistency in the Exchange's rulebook, thereby removing impediments to and perfecting the mechanism of a free and open market and a national market system.

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 proposed rule change is not intended to address competitive issues but rather is concerned solely with enhancing the quality of the imbalance information the Exchange publishes going into the Closing Auction, thereby promoting transparency in the Closing Auction process and the Exchange's marketplace.

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–NYSE–2024–13 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–NYSE–2024–13. 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

[25] 15 U.S.C. 78f(b).

[26] 15 U.S.C. 78f(b)(5).

[27] 15 U.S.C. 78f(b)(5).

[28] *See* note 18, *supra.*

provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–NYSE–2024–13 and should be submitted on or before April 8, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[29]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024–05632 Filed 3–15–24; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99718; File No. SR–NYSEAMER–2024–16]

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of Proposed Change To Amend NYSE American Rule 4120

March 12, 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 March 5, 2024, NYSE American LLC (''NYSE American'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend NYSE American Rule 4120 (Regulatory Notification and Business Curtailment) to correct a cross-reference in subsections (a)(1)(C) and (c)(1)(C). The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend NYSE American Rule 4120 to correct a cross-reference in subsections (a)(1)(C) and (c)(1)(C).

NYSE American Rules 4120(a)(1)(C) and 4120(c)(1)(C) require member organizations to notify the Exchange if its net capital falls below the level specified in Securities Exchange Act (''SEA'') Rule 17a–11(c)(2). The correct cross reference in both rules should be to SEA Rule 17a–11(b)(2). A recent amendment to SEA Rule 17a–11 resulted in a numbering change, and so what was previously SEA Rule 17a–11(c)(2) is now SEA 17a–11(b)(2).[4] The Exchange accordingly proposes to correct the cross-reference in NYSE American Rules 4120(a)(1)(C) and 4120(c)(1)(C) by replacing SEA Rule 17a–11(c)(2) with SEA Rule 17a–11(b)(2).

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b)(5) of the Exchange Act,[5] 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 persons engaged in 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.

The Exchange believes that the proposed change to NYSE American Rules 4120(a)(1)(C) and 4120(c)(1)(C) to correct a cross-reference to a previously renumbered subsection would remove impediments to and perfect the mechanism of a free and open market and a national market system because the proposed change is designed to update an external rule reference. The Exchange believes that member organizations would benefit from the increased clarity, thereby reducing potential confusion and ensuring that persons subject to the Exchange's jurisdiction, regulators, and the investing public can more easily navigate and understand the Exchange's rules. The Exchange further believes that the proposed amendment would not be inconsistent with the public interest and the protection of investors because investors will not be harmed and in fact would benefit from increased clarity, thereby reducing potential confusion.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[6] the Exchange believes that the proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not intended to address competitive issues but is rather concerned with making a correction to Exchange rules. Since the proposal does not substantively modify system functionality or processes on the Exchange, the proposed changes will not impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[7] and Rule 19b–4(f)(6) thereunder.[8] Because the proposed rule change does not: (i)

[29] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See* Securities Exchange Act Release No. 87005, 84 FR 68550 (December 16, 2019) (Recordkeeping and Reporting Requirements for Security-Based Swap Dealers, Major Security-Based Swap Participants, and Broker-Dealers).

[5] 15 U.S.C. 78f(b)(5).

[6] 15 U.S.C. 78f(b)(8).

[7] 15 U.S.C. 78s(b)(3)(A)(iii).

[8] 17 CFR 240.19b–4(f)(6).

significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [9] and Rule 19b–4(f)(6)(iii) [10] thereunder.

A proposed rule change filed under Rule 19b–4(f)(6) [11] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[12] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange states that the proposed change will not adversely impact investors and will permit the Exchange to promptly correct a rule reference in order to alleviate potential investor or public confusion and add clarity to its rules. According to the Exchange, because the proposed rule change does not raise any novel regulatory issues, the Exchange believes that waiver of the operative delay would be consistent with the protection of investors and the public interest. The Commission finds that, because the proposed rule change merely corrects a rule reference in the Exchange's rulebook, waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the operative delay and designates the proposal operative upon filing.[13]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) of the Act [14] to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–NYSEAMER–2024–16 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–NYSEAMER–2024–16. 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–NYSEAMER–2024–16 and should be submitted on or before April 8, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024–05631 Filed 3–15–24; 8:45 am]

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[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(6)(iii). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[11] 17 CFR 240.19b–4(f)(6).

[12] 17 CFR 240.19b–4(f)(6)(iii).

[13] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[14] 15 U.S.C. 78s(b)(2)(B).

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99722; File No. SR–CboeBYX–2024–007]

Self-Regulatory Organizations; Cboe BYX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fee Schedule

March 12, 2024.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 1, 2024, Cboe BYX Exchange, Inc. (the ''Exchange'' or ''BYX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe BYX Exchange, Inc. (the ''Exchange'' or ''BYX'') proposes to amend its Fee Schedule. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/equities/regulation/rule_filings/BYX/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Fee Schedule applicable to its equities trading platform (''BYX Equities'') by: (1) modifying the Remove Volume Tiers; and (2) deleting the Step-Up Tier. The Exchange proposes to implement these changes effective March 1, 2024.

The Exchange first notes that it 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. More specifically, the Exchange is only one of 16 registered equities exchanges, as well as a number of alternative trading systems and other off-exchange venues that do not have similar self-regulatory responsibilities under the Securities Exchange Act of 1934 (the ''Act''), to which market participants may direct their order flow. Based on publicly available information,[3] no single registered equities exchange has more than 16% of the market share. Thus, in such a low-concentrated and highly competitive market, no single equities exchange possesses significant pricing power in the execution of order flow. The Exchange in particular operates a ''Taker-Maker'' model whereby it pays credits to members that remove liquidity and assesses fees to those that add liquidity. The Exchange's Fee Schedule sets forth the standard rebates and rates applied per share for orders that remove and provide liquidity, respectively. Currently, for orders in securities priced at or above $1.00, the Exchange provides a standard rebate of $0.00200 per share for orders that remove liquidity and assesses a fee of $0.00200 per share for orders that add liquidity.[4] For orders in securities priced below $1.00, the Exchange does not assess any fees for orders that add liquidity, and provides a rebate in the amount of 0.10% of the total dollar value for orders that remove liquidity.[5] Additionally, in response to the competitive environment, the Exchange also offers tiered pricing which provides Members opportunities to qualify for higher rebates or reduced fees where certain volume criteria and thresholds are met. Tiered pricing provides an incremental incentive for Members to strive for higher tier levels, which provides increasingly higher benefits or discounts for satisfying increasingly more stringent criteria.

Remove Volume Tiers

Under footnote 1 of the Fee Schedule, the Exchange currently offers various Add/Remove Volume Tiers. In particular, the Exchange offers three Remove Volume Tiers that each provide an enhanced rebate for Members' qualifying orders yielding fee codes BB,[6] N[7] and W[8] where a Member reaches certain add volume-based criteria. The Exchange first proposes to delete Remove Volume Tiers 7 and 8 as the Exchange does not wish to, nor is required to, maintain such tiers. More specifically, the proposed change removes these tiers as the Exchange would rather redirect future resources and funding into other programs and tiers intended to incentivize increased order flow.

Next, the Exchange proposes to introduce a new Remove Volume Tier 6, and re-number current Remove Volume Tier 6 to Remove Volume Tier 7. In addition, the Exchange proposes to amend the criteria of current Remove Volume Tier 6 (proposed Remove Volume Tier 7). The criteria for proposed Remove Volume Tier 6 is as follows:

• Proposed Remove Volume Tier 6 provides a rebate of $0.0013 per share in securities priced at or above $1.00 to qualifying orders (*i.e.,* orders yielding fee codes BB, N, or W) where (1) Member has a combined Auction ADV[9] and ADV[10] ≥0.08% of the TCV; [11] and (2) Member has a combined Auction ADV and ADAV[12] ≥5,000,000 shares.

The criteria for current Remove Volume Tier 6 (proposed Remove Volume Tier 7) is as follows:

• Remove Volume Tier 6 provides a rebate of $0.0015 per share in securities priced at or above $1.00 to qualifying orders (*i.e.,* orders yielding fee codes BB, N, or W) where (1) Member has a combined Auction ADV and ADV ≥0.08% of the TCV; and (2) Member has a combined Auction ADV and ADAV ≥500,000 shares.

The proposed criteria for current Remove Volume Tier 6 (proposed Remove Volume Tier 7) is as follows:

• Proposed Remove Volume Tier 7 provides a rebate of $0.0015 per share in securities priced at or above $1.00 to qualifying orders (*i.e.,* orders yielding fee codes BB, N, or W) where (1) Member has a combined Auction ADV and ADV ≥0.10% of the TCV; and (2) Member has a combined Auction ADV and ADAV ≥7,000,000 shares.

The Exchange believes that the proposed modification to current Remove Volume Tier 6 (proposed Remove Volume Tier 7) and the introduction of proposed Remove Volume Tier 6 will incentivize Members to add volume to the Exchange, thereby contributing to a deeper and more liquid market, which benefits all market participants and provides greater execution opportunities on the Exchange. While the proposed criteria in current Remove Volume Tier 6 (proposed Remove Volume Tier 7) is more difficult to achieve than the current criteria, the revised criteria continue to remain commensurate with the rebate that will be received upon a Member satisfying the proposed criteria.

Step-Up Tier

Under footnote 2 of the Fee Schedule, the Exchange currently offers a Step-Up Tier that assesses a reduced fee for Members' qualifying orders yielding fee codes B,[13] V,[14] Y,[15] and AD[16] where certain add volume-based criteria is met, including ''growing'' volume over a certain baseline month. The Exchange now proposes to delete the Step-Up Tier as the Exchange does not wish to, nor is required to, maintain such tier. More

[3] *See* Cboe Global Markets, U.S. Equities Market Volume Summary, Month-to-Date (February 23, 2024), available at *https://www.cboe.com/us/equities/market_statistics/.*

[4] *See* BYX Equities Fee Schedule, Standard Rates.

[5] *Id.*

[6] Fee code BB is appended to orders that remove liquidity from BYX in Tape B securities.

[7] Fee code N is appended to orders that remove liquidity from BYX in Tape C securities.

[8] Fee code W is appended to orders that remove liquidity from BYX in Tape A securities.

[9] ''Auction ADV'' means average daily auction volume calculated as the number of shares executed in an auction per day.

[10] ''ADV'' means average daily volume calculated as the number of shares added ore removed, combined, per day. ADV is calculated on a monthly basis.

[11] ''TCV'' means total consolidated volume calculated as the volume reported by all exchanges and trade reporting facilities to a consolidated transaction reporting plan for the month for which the fees apply.

[12] ''ADAV'' means average daily added volume calculated as the number of shares added per day. ADAV is calculated on a monthly basis.

[13] Fee code B is appended to displayed orders that add liquidity to BYX in Tape B securities.

[14] Fee code V is appended to displayed orders that add liquidity to BYX in Tape A securities.

[15] Fee code Y is appended to displayed orders that add liquidity to BYX in Tape C securities.

[16] Fee code AD is appended to displayed orders executed in a Periodic Auction.

specifically, the proposed change removes this tier as the Exchange would rather redirect future resources and funding into other programs and tiers intended to incentivize increased order flow.

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.[17] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[18] 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)[19] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers as well as Section 6(b)(4)[20] as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities.

As described 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 Exchange believes that its proposal to modify current Remove Volume Tier 6 (proposed Remove Volume Tier 7) and introduce proposed Remove Volume Tier 6 reflects a competitive pricing structure designed to incentivize market participants to direct their order flow to the Exchange, which the Exchange believes would enhance market quality to the benefit of all Members. Additionally, the Exchange notes that relative volume-based incentives and discounts have been widely adopted by exchanges,[21] including the Exchange,[22] and are reasonable, equitable and non-discriminatory because they are open to all Members on an equal basis and provide additional benefits or discounts that are reasonably related to (i) the value to an exchange's market quality and (ii) associated higher levels of market activity, such as higher levels of liquidity provision and/or growth patterns. Competing equity exchanges offer similar tiered pricing structures, including schedules or rebates and fees that apply based upon members achieving certain volume and/or growth thresholds, as well as assess similar fees or rebates for similar types of orders, to that of the Exchange.

In particular, the Exchange believes its proposal to modify current Remove Volume Tier 6 (proposed Remove Volume Tier 7) and introduce proposed Remove Volume Tier 6 is reasonable because the tiers will be available to all Members and provide all Members with an opportunity to receive a higher enhanced rebate. The Exchange further believes that modified Remove Volume Tier 6 (proposed Remove Volume Tier 7) and proposed Remove Volume Tier 6 will provide a reasonable means to encourage adding displayed orders in Members' order flow to the Exchange and to incentivize Members to continue to provide volume to the Exchange by offering them an additional opportunity to receive a higher enhanced rebate on qualifying orders. An overall increase in activity would deepen the Exchange's liquidity pool, offers additional cost savings, support the quality of price discovery, promote market transparency and improve market quality, for all investors.

The Exchange believes proposed modified Remove Volume Tier 6 (proposed Remove Volume Tier 7) and proposed Remove Volume Tier 6 are reasonable as they do not represent a significant departure from the criteria currently offered in the Fee Schedule. The Exchange also believes that the proposal represents an equitable allocation of fees and rebates and is not unfairly discriminatory because all Members will be eligible for the new and revised tiers and have the opportunity to meet the tiers' criteria and receive the corresponding reduced fee if such criteria are met. Without having a view of activity on other markets and off-exchange venues, the Exchange has no way of knowing whether these proposed rule changes would definitely result in any Members qualifying for the new proposed tiers. While the Exchange has no way of predicting with certainty how the proposed changes will impact Member activity, based on the prior months volume, the Exchange anticipates that at least three Members will be able to satisfy proposed Remove Volume Tier 6, and at least four Members will be able to satisfy proposed Remove Volume Tier 7. The Exchange also notes that the proposed changes will not adversely impact any Member's ability to qualify for reduced fees or enhanced rebates offered under other tiers. Should a Member not meet the proposed new criteria, the Member will merely not receive that corresponding enhanced rebate.

The Exchange believes that its proposal to eliminate current Remove Volume Tiers 7–8 and the Step-Up Tier is reasonable because the Exchange is not required to maintain these tiers nor is it required to provide Members an opportunity to receive enhanced rebates or reduced fees. The Exchange believes its proposal to eliminate the tiers is also equitable and not unfairly discriminatory because it applies to all Members (*i.e.,* the tiers will not be available for any Member). The Exchange also notes that the proposed rule change to remove these tiers merely results in Members not receiving an enhanced rebate or reduced fee, which, as noted above, the Exchange is not required to offer or maintain. Furthermore, the proposed rule change to eliminate the tiers enables the Exchange to redirect resources and funding into other programs and tiers intended to incentivize increased order flow.

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. Rather, as discussed above, the Exchange believes that the proposed change would encourage the submission of additional order flow to a public exchange, thereby promoting market depth, execution incentives and enhanced execution opportunities, as well as price discovery and transparency for all Members. As a result, the Exchange believes that the proposed changes further the Commission's goal in adopting Regulation NMS of fostering competition among orders, which promotes ''more efficient pricing of individual stocks for all types of orders, large and small.''

[17] 15 U.S.C. 78f(b).

[18] 15 U.S.C. 78f(b)(5).

[19] *Id.*

[20] 15 U.S.C. 78f(b)(4).

[21] *See e.g.,* EDGA Equities Fee Schedule, Footnote 7, Add/Remove Volume Tiers.

[22] *See e.g.,* BYX Equities Fee Schedule, Footnote 1, Add/Remove Volume Tiers.

The Exchange believes the proposed rule changes do not impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. Particularly, the proposed modified current Remove Volume Tier 6 (proposed Remove Volume Tier 7) and proposed Remove Volume Tier 6 will apply to all Members equally in that all Members are eligible for the tiers and enhanced rebates, have a reasonable opportunity to meet the proposed tiers' criteria and will receive the enhanced rebate on their qualifying orders if such criteria is met. The Exchange does not believe the proposed changes burden competition, but rather, enhance competition as they are intended to increase the competitiveness of BYX by amending existing pricing incentives in order to attract order flow and incentivize participants to increase their participation on the Exchange, providing for additional execution opportunities for market participants and improved price transparency. Greater overall order flow, trading opportunities, and pricing transparency benefits all market participants on the Exchange by enhancing market quality and continuing to encourage Members to send orders, thereby contributing towards a robust and well-balanced market ecosystem.

Additionally, the Exchange believes the proposed elimination of current Remove Volume Tiers 7–8 and the Step-Up Tier does not impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. Specifically, the proposed change to eliminate current Remove Volume Tiers 7–8 and the Step-Up Tier will not impose any burden on intramarket competition because the changes apply to all Members uniformly, as in, the tiers will no longer be available to any Member.

Next, the Exchange believes the proposed rule changes does not impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. As previously discussed, the Exchange operates in a highly competitive market. Members have numerous alternative venues that they may participate on and direct their order flow, including other equities exchanges, off-exchange venues, and alternative trading systems. Additionally, the Exchange represents a small percentage of the overall market. Based on publicly available information, no single equities exchange has more than 16% of the market share.[23] Therefore, no exchange possesses significant pricing power in the execution of order flow. Indeed, participants can readily choose to send their orders to other exchange and off-exchange venues if they deem fee levels at those other venues to be more favorable. Moreover, the Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [24] The fact that this market is competitive has also long been recognized by the courts. In *NetCoalition* v. *Securities and Exchange Commission,* the D.C. Circuit stated as follows: ''[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers'. . . .''.[25] Accordingly, the Exchange does not believe its proposed fee change imposes any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [26] and paragraph (f) of Rule 19b–4 [27] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include file number SR–CboeBYX–2024–007 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–CboeBYX–2024–007. 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

[23] *Supra* note 3.

[24] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

[25] *NetCoalition* v. *SEC*, 615 F.3d 525, 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782–83 (December 9, 2008) (SR–NYSEArca–2006–21)).

[26] 15 U.S.C. 78s(b)(3)(A).

[27] 17 CFR 240.19b–4(f).

withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–CboeBYX–2024–007 and should be submitted on or before April 8, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[28]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024–05634 Filed 3–15–24; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99724; File No. SR–CboeBZX–2024–022]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Creation Basket Size of the VanEck Bitcoin Trust

March 12, 2024.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 4, 2024, Cboe BZX Exchange, Inc. (''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder.[4] 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

(a) Cboe BZX Exchange, Inc. (''BZX'' or the ''Exchange'') is filing with the Securities and Exchange Commission (''Commission'' or ''SEC'') a proposed rule change to amend the VanEck Bitcoin Trust (the ''Trust''), shares of which are listed and traded on the Exchange pursuant to BZX Rule 14.11(e)(4), to amend the creation basket size.

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/equities/regulation/rule_filings/bzx/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Commission approved the listing and trading of shares of the Trust (the ''Shares'') on the Exchange pursuant to Exchange Rule 14.11(e)(4), Commodity-Based Trust Shares, on January 10, 2024.[5] Exchange Rule 14.11(e)(4) governs the listing and trading of Commodity-Based Trust Shares, which 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. The Shares are issued by the Trust, a Delaware statutory trust organized on December 17, 2020.

The Exchange proposes to amend a representation set forth in the Exchange's previous rule filing to list and trade Shares of the Trust.[6] Specifically, Amendment No. 2 represented that that when the Trust sells or redeems its Shares, it will do so in cash transactions in blocks of 50,000 Shares (a ''Creation Basket'') at the Trust's NAV. Now, the Exchange proposes to reduce the Creation Basket size from 50,000 Shares to 25,000 Shares. A decrease in the Creation Basket size would provide additional flexibility to the creation and redemption of Shares, which may result in tighter spreads and a more efficient market, to the benefit of all market participants. Furthermore, at least one other issuer of spot bitcoin exchange-traded products (''ETPs'') has similarly provided for Creation Basket sizes of less than 25,000 Shares.[7]

Except for the above change, all other representations in Amendment No. 2 and the Approval Order remain unchanged and will continue to constitute continuing listing requirements. In addition, the Trust will continue to comply with the terms of the Approval Order and the requirements of Rule 14.11(e)(4).

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.[8] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[9] 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

[28] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

[5] *See* Securities Exchange Act Release No. 99306 (January 10, 2024) (File Nos. SR–NYSEARCA–2021–90; SR–NYSEARCA–2023–44; SRNYSEARCA–2023–58; SR–NASDAQ–2023–016; SR–NASDAQ–2023–019; SR–CboeBZX–2023–028; SRCboeBZX–2023–038; SR–CboeBZX–2023–040; SR–CboeBZX–2023–042; SRCboeBZX–2023–044; SR–CboeBZX–2023–072) (Order Granting Accelerated Approval of Proposed Rule Changes, as Modified by Amendments Thereto, to List and Trade Bitcoin-Based Commodity-Based Trust Shares and Trust Units) (the ''Approval Order'').

[6] *See supra* note 5 and *see also* Securities Exchange Act Release No. 99289 (January 8, 2024) (SR–CboeBZX–2023–040) (Notice of Filing of Amendment No. 2 to a Proposed Rule Change to List and Trade Shares of VanEck Bitcoin Trust Under BZX Rule 14.11(e)(4), Commodity-Based Trust Shares)) (''Amendment No. 2'').

[7] For example, the proposal to list and trade shares of the ARK 21Shares Bitcoin ETF provided for a Creation Basket size of 5,000 shares. *See* Securities Exchange Act No. 9928 (January 8, 2024) (SR–CboeBZX–2023–028) (Notice of Filing of Amendment No. 5 to a Proposed Rule Change to List and Trade Shares of the ARK 21Shares Bitcoin ETF under BZX Rule 14.11(e)(4), Commodity-Based Trust Shares). *See also* the Approval Order.

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

system, and, in general, to protect investors and the public interest.

The Exchange believes the proposed rule change is designed to remove impediments to and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest because it would update a representation in Amendment No. 2 regarding the Creation Unit size. As described above, a decrease in the size of the Creation Basket would provide additional flexibility to the creation and redemption of Shares, which may result in tighter spreads and a more efficient market, to the benefit of all market participants. Furthermore, at least one other issuer of spot bitcoin ETPs has similarly provided for Creation Basket sizes of less than 25,000 Shares.[10]

Except for this change, all other representations made in Amendment No. 2 and the Approval Order remain unchanged and will continue to constitute continuing listing requirements for the Fund. Accordingly, the Exchange believes that this proposed rule change raises no novel regulatory issues.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. As noted above, the proposed amendment is intended to change the Creation Basket size. The Exchange believes that this change will not impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Pursuant to Section 19(b)(3)(A) of the Act[11] and Rule 19b–4(f)(6)[12] thereunder, the Exchange has designated this proposal as one that effects a change that: (i) does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) by its terms, does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest.[13]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii)[14] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange requested that the Commission waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange represents that a decrease in the Creation Basket size would provide additional flexibility to the creation and redemption of Shares, which may result in tighter spreads and a more efficient market, to the benefit of all market participants. Furthermore, at least one other issuer of spot bitcoin ETPs has similarly provided for Creation Basket sizes of less than 25,000 Shares.[15] The Exchange further represents that except for the change to the size of the Creation Basket, all other representations in Amendment No. 2 and the Approval Order remain unchanged and will continue to constitute continuing listing requirements. The proposed rule change thus raises no novel legal or regulatory issues. Therefore, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposed rule change operative upon filing.[16]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–CboeBZX–2024–022 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–CboeBZX–2024–022. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–CboeBZX–2024–022 and should be submitted on or before April 8, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Sherry R. Haywood,

Assistant Secretary.

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[10] *See supra* note 7.

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(6).

[13] In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[14] 17 CFR 240.19b–4(f)(6)(iii).

[15] *See supra* note 7.

[16] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[17] 17 CFR 200.30–3(a)(12), (59).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99713; File No. SR–NYSEARCA–2024–22]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Establish the NYSE Arca Aggregated Lite Market Data Feed

March 12, 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 February 27, 2024, NYSE Arca, Inc. (''NYSE Arca'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, 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 establish the NYSE Arca Aggregated Lite (''NYSE Arca Agg Lite'') market data feed. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to establish the NYSE Arca Agg Lite market data feed. The NYSE Arca Agg Lite is a NYSE Arca-only frequency-based depth of book market data feed of the NYSE Arca's limit order book for up to ten (10) price levels for securities traded on the Exchange and for which the Exchange reports quotes and trades under the Consolidated Tape Association (''CTA'') Plan or the Nasdaq/UTP Plan. NYSE Arca Agg Lite would be a compilation of limit order data that the Exchange would provide to vendors and subscribers. As proposed, the NYSE Arca Agg Lite data feed would be updated no less frequently than once per second. The NYSE Arca Agg Lite would include depth of book order data as well as security status messages. The security status message would inform subscribers of changes in the status of a specific security, such as trading halts, short sale restriction, etc. In addition, the NYSE Arca Agg Lite would also include order imbalance information prior to the opening and closing of trading.

The Exchange proposes to offer NYSE Arca Agg Lite after receiving requests from vendors and subscribers that would like to receive the data described above in an integrated fashion at a pre-defined publication interval, in this case updates no less than once per second. An aggregated data feed may provide greater efficiencies and reduce errors for vendors and subscribers that currently choose to integrate the above data into a single offering after receiving it from the Exchange through existing products and adjust the publication frequency based on a subscriber's needs. The Exchange believes that providing vendors and subscribers with the option to subscribe to a market data product that integrates a subset of data from existing products and where such aggregated data is published at a pre-defined interval, thus lowering bandwidth, infrastructure and operational requirements, would allow vendors and subscribers to choose the best solution for their specific business needs. The Exchange notes that publishing only the top ten price levels on both the bid and offer sides of the order book where such data is communicated to subscribers at a pre-defined interval would reduce the overall volume of messages required to be consumed by subscribers when compared to a full order-by-order data feed or a full depth of book data feed. Providing data in this format and publication frequency would make NYSE Arca Agg Lite more easily consumable by vendors and subscribers, especially for display purposes.

The Exchange proposes to offer NYSE Arca Agg Lite through the Exchange's Liquidity Center Network (''LCN''), a local area network in the Exchange's Mahwah, New Jersey data center that is available to users of the Exchange's co-location services. The Exchange would also offer NYSE Arca Agg Lite through the ICE Global Network (''IGN''), through which all other users and members access the Exchange's trading and execution systems and other proprietary market data products.

The Exchange will file a separate rule filing to establish fees for NYSE Arca Agg Lite. The Exchange will announce the implementation date of this proposed rule change by Trader Update, which, subject to the effectiveness of this proposed rule change, will be no later than the second quarter of 2024.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) [4] of the Act (''Act''), in general, and furthers the objectives of Section 6(b)(5) [5] of the Act, 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 persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest, and it is not designed to permit unfair discrimination among customers, brokers, or dealers. This proposal is in keeping with those principles in that it promotes increased transparency through the dissemination of NYSE Arca Agg Lite to those interested in receiving it.

The Exchange also believes this proposal is consistent with Section 6(b)(5) of the Act because it protects investors and the public interest and promotes just and equitable principles of trade by providing investors with new options for receiving market data as requested by market data vendors and subscribers. The proposed rule change would benefit investors by facilitating their prompt access to the frequency-based depth of book information contained in the NYSE Arca Agg Lite market data feed.

The Exchange also believes that the proposed rule change is consistent with Section 11(A) of the Act [6] in that it supports (i) fair competition among brokers and dealers, among exchange markets, and between exchange markets and markets other than exchange

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

[6] 15 U.S.C. 78k–1.

markets and (ii) the availability of information with respect to quotations for and transactions in securities to brokers, dealers, and investors. Furthermore, the proposed rule change is consistent with Rule 603 of Regulation NMS,[7] which provides that any national securities exchange that distributes information with respect to quotations for or transactions in an NMS stock do so on terms that are not unreasonably discriminatory. The NYSE Arca Agg Lite market data feed would be accessed and subscribed to on a voluntary basis, in that neither the Exchange nor market data vendors are required by any rule or regulation to make this data available. Accordingly, vendors and subscribers can discontinue their use at any time and for any reason.

In adopting Regulation NMS, the Commission granted self-regulatory organizations (''SROs'') and broker dealers increased authority and flexibility to offer new and unique market data to consumers of such data. It was believed that this authority would expand the amount of data available to users and consumers of such data and also spur innovation and competition for the provision of market data. The Exchange believes that NYSE Arca Agg Lite is precisely the sort of market data product that the Commission envisioned when it adopted Regulation NMS. The Commission concluded that Regulation NMS would itself further the Act's goals of facilitating efficiency and competition:

> Efficiency is promoted when broker-dealers who do not need the data beyond the prices, sizes, market center identifications of the NBBO and consolidated last sale information are not required to receive (and pay for) such data. The Commission also believes that efficiency is promoted when broker-dealers may choose to receive (and pay for) additional market data based on their own internal analysis of the need for such data.[8]

In addition, NYSE Arca Agg Lite removes impediments to and perfects the mechanism of a free and open market and a national market system by providing investors with alternative market data and would compete with similar market data products currently offered by the four U.S. equities exchanges operated by Cboe Exchange, Inc.—Cboe BZX Exchange, Inc. (''BZX''), Cboe BYX Exchange, Inc. (''BYX''), Cboe EDGA Exchange, Inc. (''EDGA''), and Cboe EDGX Exchange, Inc. (''EDGX''), each of which offers a market data product called BZX Summary Depth, BYX Summary Depth, EDGA Summary Depth and EDGX Summary Depth, respectively (collectively, the ''Cboe Summary Depth'').[9] Similar to Cboe Summary Depth, NYSE Arca Agg Lite can be utilized by vendors and subscribers to quickly access and distribute aggregated order book data. As noted above, NYSE Arca Agg Lite, similar to Cboe Summary Depth, would provide aggregated depth per security, including the bid, ask and share quantity for orders received by NYSE Arca, except unlike Cboe Summary Depth, which provides aggregated depth per security for up to five price levels, NYSE Arca Agg Lite would provide aggregated depth per security for up to ten price levels on both the bid and offer sides of the NYSE Arca limit order book. The proposed market data product is also similar to the NYSE Arca Integrated Feed,[10] and Nasdaq TotalView.[11]

The Exchange notes that the existence of alternatives to the Exchange's proposed product, including real-time consolidated data, free delayed consolidated data, and proprietary data from other sources, as well as the continued availability of the Exchange's separate data feeds, ensures that the Exchange is not unreasonably discriminatory because vendors and subscribers can elect these alternatives as their individual business cases warrant.

The NYSE Arca Agg Lite market data feed will help to protect a free and open market by providing additional data to the marketplace and by giving investors greater choices. In addition, the proposal would not permit unfair discrimination because the data feed would be available to all vendors and subscribers through both the LCN and IGN.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[12] 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. Because other exchanges already offer similar products, the Exchange's proposed NYSE Arca Agg Lite will enhance competition. The NYSE Arca Agg Lite will foster competition by providing an alternative to similar products offered by other exchanges, including the Cboe Summary Depth.[13] The NYSE Arca Agg Lite market data feed would provide investors with a new option for receiving market data, which was a primary goal of the market data amendments adopted by Regulation NMS.[14] Thus, the Exchange believes the proposed rule change is necessary to permit fair competition among national securities exchanges.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[15] and Rule 19b–4(f)(6) thereunder.[16] Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become

[7] *See* 17 CFR 242.603.

[8] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496 (June 29, 2005) (Regulation NMS Adopting Release).

[9] *See* BZX Rule 11.22(m) BZX Summary Depth; BYX Rule 11.22(k) BYX Summary Depth; EDGA Rule 13.8(f) EDGA Summary Depth; and EDGX Rule 13.8(f) EDGX Summary Depth. The Cboe Summary Depth offered by BZX, BYX, EDGA and EDGX are each a data feed that offers aggregated two-sided quotations for all displayed orders for up to five (5) price levels and contains the individual last sale information, market status, trading status and trade break messages.

[10] The NYSE Arca Integrated Feed provides a real-time market data in a unified view of events, in sequence, as they appear on the NYSE Arca matching engine. The NYSE Arca Integrated Feed includes depth of book order data, last sale data, and opening and closing imbalance data, as well as security status updates (*e.g.,* trade corrections and trading halts) and stock summary messages. *See also* Securities Exchange Act Release No. 65669 (November 2, 2011), 76 FR 69311 (November 8, 2011) (SR–NYSEArca–2011–78) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change Offering a Market Data Product to Vendors and Subscribers That Combines Three Existing Market Data Feeds as Well as Additional Market Data From the Exchange Into One Integrated Product, the NYSE Arca Integrated Data Feed).

[11] Nasdaq TotalView displays the full order book depth on Nasdaq, including every single quote and order at every price level in Nasdaq-, NYSE-, NYSE American- and regional-listed securities on Nasdaq. *See https://www.nasdaq.com/solutions/nasdaq-totalview?_bt=659478569450&_bk=totalview&_bm=b&_bn=g&_bg=1446168280508&utm_term=totalview&utm_campaign=&utm_source=google&utm_medium=ppc&gclid=EAIaIQobChMIsZqiorTS_wIV2Y5bCh2xxQdUEAAYASAAEgKlyfD_BwE.*

[12] 15 U.S.C. 78f(b)(8).

[13] *See supra,* note 9.

[14] *See supra,* note 8, at 37503.

[15] 15 U.S.C. 78s(b)(3)(A)(iii).

[16] 17 CFR 240.19b–4(f)(6).

effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.[17]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[18] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include file number SR–NYSEARCA–2024–22 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–NYSEARCA–2024–22. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–NYSEARCA–2024–22 and should be submitted on or before April 8, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024–05629 Filed 3–15–24; 8:45 am]

BILLING CODE 8011–01–P

[17] 17 CFR 240.19b–4(f)(6)(iii). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[18] 15 U.S.C. 78s(b)(2)(B).

[19] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

TIME AND DATE: 2:00 p.m. on Thursday, March 21, 2024.

PLACE: The meeting will be held via remote means and/or at the Commission's headquarters, 100 F Street NE, Washington, DC 20549.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters also may be present.

In the event that the time, date, or location of this meeting changes, an announcement of the change, along with the new time, date, and/or place of the meeting will be posted on the Commission's website at *https://www.sec.gov.*

The General Counsel of the Commission, or her designee, has certified that, in her opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (6), (7), (8), 9(B) and (10) and 17 CFR 200.402(a)(3), (a)(5), (a)(6), (a)(7), (a)(8), (a)(9)(ii) and (a)(10), permit consideration of the scheduled matters at the closed meeting.

The subject matter of the closed meeting will consist of the following topics:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings;

Resolution of litigation claims; and

Other matters relating to examinations and enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting agenda items that may consist of adjudicatory, examination, litigation, or regulatory matters.

CONTACT PERSON FOR MORE INFORMATION: For further information; please contact Vanessa A. Countryman from the Office of the Secretary at (202) 551–5400.

Authority: 5 U.S.C. 552b.

Dated: March 14, 2024.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2024–05769 Filed 3–14–24; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99715; File No. SR–NYSENAT–2024–06]

Self-Regulatory Organizations; NYSE National, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Establish the NYSE National Aggregated Lite Market Data Feed

March 12, 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 February 27, 2024, NYSE National, Inc. (''NYSE National'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to establish the NYSE National Aggregated Lite

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

(''NYSE National Agg Lite'') market data feed. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to establish the NYSE National Agg Lite market data feed. The NYSE National Agg Lite is a NYSE National-only frequency-based depth of book market data feed of the NYSE National's limit order book for up to ten (10) price levels for securities traded on the Exchange and for which the Exchange reports quotes and trades under the Consolidated Tape Association (''CTA'') Plan or the Nasdaq/UTP Plan. NYSE National Agg Lite would be a compilation of limit order data that the Exchange would provide to vendors and subscribers. As proposed, the NYSE National Agg Lite data feed would be updated no less frequently than once per second. The NYSE National Agg Lite would include depth of book order data as well as security status messages. The security status message would inform subscribers of changes in the status of a specific security, such as trading halts, short sale restriction, etc.

The Exchange proposes to offer NYSE National Agg Lite after receiving requests from vendors and subscribers that would like to receive the data described above in an integrated fashion at a pre-defined publication interval, in this case updates no less than once per second. An aggregated data feed may provide greater efficiencies and reduce errors for vendors and subscribers that currently choose to integrate the above data into a single offering after receiving it from the Exchange through existing products and adjust the publication frequency based on a subscriber's needs. The Exchange believes that providing vendors and subscribers with the option to subscribe to a market data product that integrates a subset of data from existing products and where such aggregated data is published at a pre-defined interval, thus lowering bandwidth, infrastructure and operational requirements, would allow vendors and subscribers to choose the best solution for their specific business needs. The Exchange notes that publishing only the top ten price levels on both the bid and offer sides of the order book where such data is communicated to subscribers at a pre-defined interval would reduce the overall volume of messages required to be consumed by subscribers when compared to a full order-by-order data feed or a full depth of book data feed. Providing data in this format and publication frequency would make NYSE National Agg Lite more easily consumable by vendors and subscribers, especially for display purposes.

The Exchange proposes to offer NYSE National Agg Lite through the Exchange's Liquidity Center Network (''LCN''), a local area network in the Exchange's Mahwah, New Jersey data center that is available to users of the Exchange's co-location services. The Exchange would also offer NYSE National Agg Lite through the ICE Global Network (''IGN''), through which all other users and members access the Exchange's trading and execution systems and other proprietary market data products.

The Exchange will file a separate rule filing to establish fees for NYSE National Agg Lite. The Exchange will announce the implementation date of this proposed rule change by Trader Update, which, subject to the effectiveness of this proposed rule change, will be no later than the second quarter of 2024.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b)[4] of the Act (''Act''), in general, and furthers the objectives of Section 6(b)(5)[5] of the Act, 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 persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest, and it is not designed to permit unfair discrimination among customers, brokers, or dealers. This proposal is in keeping with those principles in that it promotes increased transparency through the dissemination of NYSE National Agg Lite to those interested in receiving it.

The Exchange also believes this proposal is consistent with Section 6(b)(5) of the Act because it protects investors and the public interest and promotes just and equitable principles of trade by providing investors with new options for receiving market data as requested by market data vendors and subscribers. The proposed rule change would benefit investors by facilitating their prompt access to the frequency-based depth of book information contained in the NYSE National Agg Lite market data feed.

The Exchange also believes that the proposed rule change is consistent with Section 11(A) of the Act[6] in that it supports (i) fair competition among brokers and dealers, among exchange markets, and between exchange markets and markets other than exchange markets and (ii) the availability of information with respect to quotations for and transactions in securities to brokers, dealers, and investors. Furthermore, the proposed rule change is consistent with Rule 603 of Regulation NMS,[7] which provides that any national securities exchange that distributes information with respect to quotations for or transactions in an NMS stock do so on terms that are not unreasonably discriminatory. The NYSE National Agg Lite market data feed would be accessed and subscribed to on a voluntary basis, in that neither the Exchange nor market data vendors are required by any rule or regulation to make this data available. Accordingly, vendors and subscribers can discontinue their use at any time and for any reason.

In adopting Regulation NMS, the Commission granted self-regulatory organizations (''SROs'') and broker dealers increased authority and flexibility to offer new and unique market data to consumers of such data. It was believed that this authority would expand the amount of data available to users and consumers of such data and also spur innovation and competition for the provision of market data. The Exchange believes that NYSE National Agg Lite is precisely the sort of market data product that the Commission

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

[6] 15 U.S.C. 78k–1.

[7] *See* 17 CFR 242.603.

envisioned when it adopted Regulation NMS. The Commission concluded that Regulation NMS would itself further the Act's goals of facilitating efficiency and competition:

> Efficiency is promoted when broker-dealers who do not need the data beyond the prices, sizes, market center identifications of the NBBO and consolidated last sale information are not required to receive (and pay for) such data. The Commission also believes that efficiency is promoted when broker-dealers may choose to receive (and pay for) additional market data based on their own internal analysis of the need for such data.[8]

In addition, NYSE National Agg Lite removes impediments to and perfects the mechanism of a free and open market and a national market system by providing investors with alternative market data and would compete with similar market data products currently offered by the four U.S. equities exchanges operated by Cboe Exchange, Inc.—Cboe BZX Exchange, Inc. (''BZX''), Cboe BYX Exchange, Inc. (''BYX''), Cboe EDGA Exchange, Inc. (''EDGA''), and Cboe EDGX Exchange, Inc. (''EDGX''), each of which offers a market data product called BZX Summary Depth, BYX Summary Depth, EDGA Summary Depth and EDGX Summary Depth, respectively (collectively, the ''Cboe Summary Depth'').[9] Similar to Cboe Summary Depth, NYSE National Agg Lite can be utilized by vendors and subscribers to quickly access and distribute aggregated order book data. As noted above, NYSE National Agg Lite, similar to Cboe Summary Depth, would provide aggregated depth per security, including the bid, ask and share quantity for orders received by NYSE National, except unlike Cboe Summary Depth, which provides aggregated depth per security for up to five price levels, NYSE National Agg Lite would provide aggregated depth per security for up to ten price levels on both the bid and offer sides of the NYSE National limit order book. The proposed market data product is also similar to the NYSE National Integrated Feed,[10] and Nasdaq TotalView.[11]

The Exchange notes that the existence of alternatives to the Exchange's proposed product, including real-time consolidated data, free delayed consolidated data, and proprietary data from other sources, as well as the continued availability of the Exchange's separate data feeds, ensures that the Exchange is not unreasonably discriminatory because vendors and subscribers can elect these alternatives as their individual business cases warrant.

The NYSE National Agg Lite market data feed will help to protect a free and open market by providing additional data to the marketplace and by giving investors greater choices. In addition, the proposal would not permit unfair discrimination because the data feed would be available to all vendors and subscribers through both the LCN and IGN.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[12] 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. Because other exchanges already offer similar products, the Exchange's proposed NYSE National Agg Lite will enhance competition. The NYSE National Agg Lite will foster competition by providing an alternative to similar products offered by other exchanges, including the Cboe Summary Depth.[13] The NYSE National Agg Lite market data feed would provide investors with a new option for receiving market data, which was a primary goal of the market data amendments adopted by Regulation NMS.[14] Thus, the Exchange believes the proposed rule change is necessary to permit fair competition among national securities exchanges.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[15] and Rule 19b–4(f)(6) thereunder.[16] Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.[17]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[18] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act.

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[8] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496 (June 29, 2005) (Regulation NMS Adopting Release).

[9] *See* BZX Rule 11.22(m) BZX Summary Depth; BYX Rule 11.22(k) BYX Summary Depth; EDGA Rule 13.8(f) EDGA Summary Depth; and EDGX Rule 13.8(f) EDGX Summary Depth. The Cboe Summary Depth offered by BZX, BYX, EDGA and EDGX are each a data feed that offers aggregated two-sided quotations for all displayed orders for up to five (5) price levels and contains the individual last sale information, market status, trading status and trade break messages.

[10] The NYSE National Integrated Feed provides a real-time market data in a unified view of events, in sequence, as they appear on the NYSE National matching engine. The NYSE National Integrated Feed includes depth of book order data, last sale data, and security status updates (*e.g.,* trade corrections and trading halts) and stock summary messages. *See also* Securities Exchange Act Release No. 83350 (May 31, 2018), 83 FR 26332 (June 6, 2018) (SR–NYSENAT–2018–09) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Establish the NYSE National BBO, NYSE National Trades and NYSE National Integrated Feed Market Data Feeds).

[11] Nasdaq TotalView displays the full order book depth on Nasdaq, including every single quote and order at every price level in Nasdaq-, NYSE-, NYSE American- and regional-listed securities on Nasdaq. *See https://www.nasdaq.com/solutions/nasdaq-totalview?_bt=659478569450&_bk=totalview&_bm=b&_bn=g&_bg=144616828050&utm_term=totalview&utm_campaign=&utm_source=google&utm_medium=ppc&gclid=EAIaIQobChMIsZqiorTS_wIV2Y5bCh2xxQdUEAAYASAAEgKlyfD_BwE.*

[12] 15 U.S.C. 78f(b)(8).

[13] *See supra,* note 9.

[14] *See supra,* note 8, at 37503.

[15] 15 U.S.C. 78s(b)(3)(A)(iii).

[16] 17 CFR 240.19b–4(f)(6).

[17] 17 CFR 240.19b–4(f)(6)(iii). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[18] 15 U.S.C. 78s(b)(2)(B).

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–NYSENAT–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–NYSENAT–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 submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–NYSENAT–2024–06 and should be submitted on or before April 8, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024–05630 Filed 3–15–24; 8:45 am]

BILLING CODE 8011–01–P

[19] 17 CFR 200.30–3(a)(57).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99725; File No. SR–BOX–2023–20]

Self-Regulatory Organizations; BOX Exchange LLC; Notice of Designation of Longer Period for Commission Action on Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change, as Modified by Amendment No. 2, To Adopt Rules To Govern FLEX Equity Options and a New Order Type To Trade FLEX Equity Options on the BOX Trading Floor

March 12, 2024.

On September 1, 2023, BOX Exchange LLC (''Exchange'' or ''BOX'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to adopt Rules 5055 and 7605 which, among other applicable Exchange rules, will govern the trading of flexible exchange equity options (''FLEX Equity Options'') on the BOX Trading Floor, and make related changes to Rules 100 (Definitions), 7620 (Accommodation Transactions), and 12140 (Imposition of Fines for Minor Rule Violations). The proposed rule change was published for comment in the **Federal Register** on September 19, 2023.[3] On September 27, 2023, pursuant to Section 19(b)(2) of the Act,[4] the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.[5] On December 12, 2023, the Exchange submitted Amendment No. 2 to the proposed rule change, which replaced and superseded the proposed rule change as originally filed.[6] On December 15, 2023, the Commission published notice of Amendment No. 2 and instituted proceedings pursuant to Section 19(b)(2)(B) of the Exchange Act[7] to determine whether to approve or disapprove the proposed rule change, as modified by Amendment No. 2.[8]

Section 19(b)(2) of the Act[9] provides that, after initiating proceedings, the Commission shall issue an order approving or disapproving the proposed rule change not later than 180 days after the date of publication of the notice of filing of the proposed rule change. The Commission may extend the period for issuing an order approving or disapproving the proposed rule change, however, by not more than 60 days if the Commission determines that a longer period is appropriate and publishes the reasons for such determination. The proposed rule change was published for comment in the **Federal Register** on September 19, 2023.[10] The 180th day after publication of the Notice is March 17, 2024. The Commission is extending the time period for approving or disapproving the proposed rule change for an additional 60 days.

The Commission finds that it is appropriate to designate a longer period within which to issue an order approving or disapproving the proposed rule change so that it has sufficient time to consider the proposed rule change. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[11] designates May 16, 2024 as the date by which the Commission shall either approve or disapprove the proposed rule change, as modified by Amendment No. 2 (File No. SR–BOX–2023–20).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2024–05637 Filed 3–15–24; 8:45 am]

BILLING CODE 8011–01–P

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 98380 (September 13, 2023), 88 FR 64482 (''Notice''). Comment on the proposed rule change can be found at: *https://www.sec.gov/comments/sr-box-2023-20/srbox202320.htm.*

[4] 15 U.S.C. 78s(b)(2).

[5] *See* Securities Exchange Act Release No. 98568, 86 FR 68237 (October 3, 2023). The Commission designated December 18, 2023, as the date by which it should approve, disapprove, or institute proceedings to determine whether to disapprove the proposed rule change.

[6] Amendment No. 2 is available on the Commission's website at: *https://www.sec.gov/comments/sr-box-2023-20/srbox202320-310739-809082.pdf* (''Amendment No. 2'').

[7] 15 U.S.C. 78s(b)(2)(B).

[8] *See* Securities Exchange Act Release No. 99192, 88 FR 88437 (December 21, 2023) (Notice of Filing of Amendment No. 2 and Order Instituting Proceedings) (''OIP'').

[9] 15 U.S.C. 78s(b)(2).

[10] *See* Notice, *supra* note 3.

[11] 15 U.S.C. 78s(b)(2).

[12] 17 CFR 200.30–3(a)(57).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99726; File No. SR–CboeEDGA–2024–007]

Self-Regulatory Organizations; Cboe EDGA Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fee Schedule

March 12, 2024.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 1, 2024, Cboe EDGA Exchange, Inc. (''Exchange'' or ''EDGA'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe EDGA Exchange, Inc. (the ''Exchange'' or ''EDGA'') proposes to amend its Fee Schedule. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/equities/regulation/rule_filings/edga/*), 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.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Fee Schedule applicable to its equities trading platform (''EDGA Equities'') by: (1) modifying the standard rebate for orders that remove liquidity in securities priced at or above $1.00; and (2) modifying certain Add/Remove Volume Tiers. The Exchange proposes to implement these changes effective March 1, 2024.

The Exchange first notes that it 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. More specifically, the Exchange is only one of 16 registered equities exchanges, as well as a number of alternative trading systems and other off-exchange venues that do not have similar self-regulatory responsibilities under the Securities Exchange Act of 1934 (the ''Act''), to which market participants may direct their order flow. Based on publicly available information,[3] no single registered equities exchange has more than 17% of the market share. Thus, in such a low-concentrated and highly competitive market, no single equities exchange possesses significant pricing power in the execution of order flow. The Exchange in particular operates a ''Taker-Maker'' model whereby it pays credits to members that remove liquidity and assesses fees to those that add liquidity. The Exchange's Fee Schedule sets forth the standard rebates and rates applied per share for orders that remove and provide liquidity, respectively. Currently, for orders in securities priced at or above $1.00, the Exchange provides a standard rebate of $0.00160 per share for orders that remove liquidity and assesses a fee of $0.0030 per share for orders that add liquidity.[4] For orders in securities priced below $1.00, the Exchange does not assess any fees or provide any rebates for orders that add or remove liquidity.[5] Additionally, in response to the competitive environment, the Exchange also offers tiered pricing which provides Members opportunities to qualify for higher rebates or reduced fees where certain volume criteria and thresholds are met. Tiered pricing provides an incremental incentive for Members to strive for higher tier levels, which provides increasingly higher benefits or discounts for satisfying increasingly more stringent criteria.

Standard Rates

Currently, the Exchange offers standard rebates to remove liquidity for orders appended with fee codes 6,[6] BB,[7] N,[8] and W.[9] The Exchange now proposes to revise the standard rebate associated with securities priced at or above $1.00 from $0.00160 per share to $0.00140 per share for orders appended with fee codes 6, BB, N, or W. There is no proposed change in the rebate provided for securities priced below $1.00. The purpose of decreasing the standard rebate associated with fee codes 6, BB, N, and W in securities priced at or above $1.00 is for business and competitive reasons, as the Exchange believes that decreasing such rebate as proposed would decrease the Exchange's expenditures with respect to transaction pricing in a manner that is still consistent with the Exchange's overall pricing philosophy of encouraging added liquidity. The Exchange notes that despite the decrease in the standard rebate associated with fee codes 6, BB, N, and W in securities priced at or above $1.00, the standard rebate remains competitive and continues to be more favorable for Members than the standard rate provided by competing exchanges.[10]

Add/Remove Volume Tiers

Under footnote 7 of the Fee Schedule, the Exchange currently offers various Add/Remove Volume Tiers. In particular, the Exchange offers four Add Volume Tiers that each provide a reduced fee for Members' qualifying

[3] *See* Cboe Global Markets, U.S. Equities Market Volume Summary, Month-to-Date (February 22, 2024), available at *https://www.cboe.com/us/equities/market_statistics/*.

[4] *See* EDGA Equities Fee Schedule, Standard Rates.

[5] *Id.*

[6] Fee code 6 is appended to orders that remove liquidity from EDGA during the pre and post market in securities listed on all tapes.

[7] Fee code BB is appended to orders that remove liquidity from EDGA in Tape B securities.

[8] Fee code N is appended to orders that remove liquidity from EDGA in Tape C securities.

[9] Fee code W is appended to orders that remove liquidity from EDGA in Tape A securities.

[10] *See e.g.,* BYX Equity Fee Schedule, Standard Rates (the standard rebate provided to orders that remove liquidity is $0.00020); Nasdaq BX Fee Schedule (orders that remove liquidity are assessed a fee of $0.0007 unless certain volume thresholds are met).

orders yielding fee codes 3,[11] 4,[12] B,[13] V,[14] and Y [15] where a Member reaches certain add volume-based criteria. The Exchange now proposes to modify the criteria associated with Add Volume Tier 1 and Add Volume Tier 4. The current criteria for Add Volume Tiers 1 and 4 is as follows:

• Add Volume Tier 1 assesses a reduced fee of $0.0026 per share for securities priced at or above $1.00 to qualifying orders (*i.e.,* orders yielding fee codes 3, 4, B, V, or Y) where a Member has an ADAV [16] ≥ 0.10% of the TCV.[17]

• Add Volume Tier 4 assesses a reduced fee of $0.0014 per share for securities priced at or above $1.00 to qualifying orders (*i.e.,* orders yielding fee codes 3, 4, B, V, or Y) where a Member adds or removes an ADV ≥ 0.90% of the TCV.

The proposed criteria for Add Volume Tiers 1 and 4 is as follows:

• Add Volume Tier 1 assesses a reduced fee of $0.0026 per share for securities priced at or above $1.00 to qualifying orders (*i.e.,* orders yielding fee codes 3, 4, B, V, or Y) where a Member has an ADAV ≥ 0.15% of the TCV.

• Add Volume Tier 4 assesses a reduced fee of $0.0014 per share for securities priced at or above $1.00 to qualifying orders (*i.e.,* orders yielding fee codes 3, 4, B, V, or Y) where a Member adds or removes an ADV ≥ 0.90% of the TCV or Member adds or removes an ADV ≥ 100,000,000.

The Exchange believes that the proposed modifications to Add Volume Tiers 1 and 4 will incentivize Members to add volume to and remove volume from the Exchange, thereby contributing to a deeper and more liquid market, which benefits all market participants and provides greater execution opportunities on the Exchange. While the proposed criteria is slightly more difficult to achieve than the current criteria, the Exchange believes that the criteria continues to be commensurate with the enhanced rebate offered by the Exchange for Members who satisfy the proposed criteria of Add Volume Tiers 1 and 4 and remains in-line with the criteria offered under Add Volume Tiers 2 and 3.

The Exchange also proposes to amend the definition of ADAV in order to correct an inadvertent omission of the word ''added.'' The proposed revised definition of ADAV would read ''average daily added volume calculated as the number of shares added per day . . .'' This proposed definition will align the definition of ADAV on the Exchange with the definition of ADAV on the Exchange's affiliates.[18]

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.[19] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [20] 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) [21] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers as well as Section 6(b)(4) [22] as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities.

As described 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 Exchange believes that its proposal to: (1) modify the standard rebate for orders that remove liquidity in securities priced at or above $1.00; and (2) modify Add Volume Tiers 1 and 4 reflects a competitive pricing structure designed to incentivize market participants to direct their order flow to the Exchange, which the Exchange believes would enhance market quality to the benefit of all Members.

Specifically, the Exchange's proposed criteria for Add Volume Tier 1 and 4 is not a significant departure from existing criteria, continues to be reasonably correlated to the lower assessed fees offered by the Exchange and other competing exchanges,[23] and will continue to incentivize Members to submit order flow to the Exchange. Additionally, the Exchange notes that relative volume-based incentives and discounts have been widely adopted by exchanges,[24] including the Exchange,[25] and are reasonable, equitable and non-discriminatory because they are open to all Members on an equal basis and provide additional benefits or discounts that are reasonably related to (i) the value to an exchange's market quality and (ii) associated higher levels of market activity, such as higher levels of liquidity provision and/or growth patterns. Competing equity exchanges offer similar tiered pricing structures, including schedules of rebates and fees that apply based upon members achieving certain volume and/or growth thresholds, as well as assess similar fees or rebates for similar types of orders, to that of the Exchange.

In particular, the Exchange believes its proposal to modify Add Volume Tiers 1 and 4 is reasonable because the tiers will be available to all Members and provide all Members with an opportunity to receive a lower assessed fee. The Exchange further believes that modified Add Volume Tiers 1 and 4 will provide a reasonable means to encourage adding displayed orders in Members' order flow to the Exchange and to incentivize Members to continue to provide volume to the Exchange by offering them an additional opportunity to receive a lower assessed fee on qualifying orders. An overall increase in activity would deepen the Exchange's liquidity pool, offers additional cost savings, support the quality of price discovery, promote market transparency

[11] Fee code 3 is appended to orders that add liquidity to EDGA in the pre and post market in Tape A or Tape C securities.

[12] Fee code 4 is appended to orders that add liquidity to EDGA in the pre and post market in Tape B securities.

[13] Fee code B is appended to orders that add liquidity to EDGA in Tape B securities.

[14] Fee code V is appended to orders that add liquidity to EDGA in Tape A securities.

[15] Fee code Y is appended to orders that add liquidity to EDGA in Tape C securities.

[16] ''ADAV'' means average daily volume calculated as the number of shares added to, removed from, or routed by, the Exchange, or any combination or subset thereof, per day. ADAV is calculated on a monthly basis. The Exchange notes that intends to amend the definition of ADAV, discussed *infra.*

[17] ''TCV'' means total consolidated volume calculated as the volume reported by all exchanges and trade reporting facilities to a consolidated transaction reporting plan for the month for which the fees apply.

[18] *See e.g.,* BZX Equities Fee Schedule, Definitions; EDGX Equities Fee Schedule, Definitions.

[19] 15 U.S.C. 78f(b).

[20] 15 U.S.C. 78f(b)(5).

[21] *Id.*

[22] 15 U.S.C. 78f(b)(4)

[23] *See e.g.,* Nasdaq BX Equity Fee Schedule, Fee to Add Displayed Liquidity.

[24] *See e.g.,* BYX Equities Fee Schedule, Footnote 1, Add/Remove Volume Tiers.

[25] *See e.g.,* EDGA Equities Fee Schedule, Footnote 7, Add/Remove Volume Tiers.

and improve market quality, for all investors.

Further, the Exchange believes that its proposal to modify the standard rebate associated with securities priced at or above $1.00 is reasonable, equitable, and consistent with the Act because such change is designed to decrease the Exchange's expenditures with respect to transaction pricing in order to offset some of the costs associated with the Exchange's current pricing structure, which assesses various fees for liquidity-adding orders and provides various rebates for liquidity-removing orders, and the Exchange's operations generally, in a manner that is consistent with the Exchange's overall pricing philosophy of encouraging added liquidity. The proposed decreased standard rebate of $0.00140 per share is reasonable and appropriate because it remains competitive with the standard rebate offered by other exchanges.[26] The Exchange further believes that the proposed decrease to the standard rebate associated with securities priced at or above $1.00 is not unfairly discriminatory because it applies to all Members equally, in that all Members will receive the lower standard rebate upon submitting orders appended with fee codes 6, BB, N, or W.

The Exchange's proposal to amend the definition of ADAV is intended to correct an inadvertent omission of the word ''added.'' This proposed change promotes just and equitable principles of trade and are designed to improve impediments to and perfect the mechanism of a free and open market and a national market system as it provides transparency to Members by aligning the definition of ADAV with the definition found on the Exchange's affiliates.

The Exchange believes the proposed modified Add Volume Tiers 1 and 4 are reasonable as they do not represent a significant departure from the criteria currently offered in the Fee Schedule. The Exchange also believes that the proposal represents an equitable allocation of fees and rebates and is not unfairly discriminatory because all Members will be eligible for the new and revised tiers and have the opportunity to meet the tiers' criteria and receive the corresponding reduced fee or enhanced rebate if such criteria are met. Without having a view of activity on other markets and off-exchange venues, the Exchange has no way of knowing whether these proposed rule changes would definitely result in any Members qualifying for the new proposed tiers. While the Exchange has no way of predicting with certainty how the proposed changes will impact Member activity, based on the prior months volume, the Exchange anticipates that at least two Members have the ability to grow their volume to satisfy proposed Add Volume Tier 1, and at least one Member will be able to satisfy proposed Add Volume Tier 4. The Exchange also notes that the proposed changes will not adversely impact any Member's ability to qualify for reduced fees or enhanced rebates offered under other tiers. Should a Member not meet the proposed new criteria, the Member will merely not receive that corresponding enhanced rebate.

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. Rather, as discussed above, the Exchange believes that the proposed changes would encourage the submission of additional order flow to a public exchange, thereby promoting market depth, execution incentives and enhanced execution opportunities, as well as price discovery and transparency for all Members. As a result, the Exchange believes that the proposed changes further the Commission's goal in adopting Regulation NMS of fostering competition among orders, which promotes ''more efficient pricing of individual stocks for all types of orders, large and small.''

The Exchange believes the proposed rule changes do not impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. Particularly, the proposed changes to Add Volume Tiers 1 and 4 will apply to all Members equally in that all Members are eligible for each of the tiers, have a reasonable opportunity to meet the tiers' criteria and will receive the lower assessed fee on their qualifying orders if such criteria are met. The Exchange does not believe the proposed changes burden competition, but rather, enhance competition as they are intended to increase the competitiveness of EDGA by adopting a new pricing incentive and amending existing pricing incentives in order to attract order flow and incentivize participants to increase their participation on the Exchange, providing for additional execution opportunities for market participants and improved price transparency. Greater overall order flow, trading opportunities, and pricing transparency benefits all market participants on the Exchange by enhancing market quality and continuing to encourage Members to send orders, thereby contributing towards a robust and well-balanced market ecosystem.

The Exchange does not believe that the proposed revision to the definition of ADAV imposes any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. Specifically, the Exchange does not believe its proposal to revise the definition of ADAV will have any impact on competition as the changes are only intended to add clarity to the Exchange's Fee Schedule and does not involve a substantive change.

Further, the Exchange believes the proposed decreased standard rebate associated with orders that remove liquidity in securities priced at or above $1.00 does not impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rebate associated with orders that remove liquidity in securities priced at or above $1.00 would apply to all Members equally in that all Members are eligible for the standard rebate and all Members would be subject to the same reduced rebate for removing liquidity from the Exchange in securities priced at or above $1.00. As a result, any Member can decide to remove liquidity (or not remove liquidity) based on the associated rebate that the Exchange proposes to amend.

Next, the Exchange believes the proposed rule changes does not impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. As previously discussed, the Exchange operates in a highly competitive market. Members have numerous alternative venues that they may participate on and direct their order flow, including other equities exchanges, off-exchange venues, and alternative trading systems. Additionally, the Exchange represents a small percentage of the overall market. Based on publicly available information, no single equities exchange has more than 17% of the market share.[27] Therefore, no exchange possesses significant pricing power in the execution of order flow. Indeed, participants can readily choose to send their orders to other exchange and off-exchange venues if they deem fee levels at those other venues to be more favorable. Moreover, the Commission has repeatedly expressed its preference for competition over regulatory

[26] *Supra* note 11.

[27] *Supra* note 3.

intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [28] The fact that this market is competitive has also long been recognized by the courts. In *NetCoalition* v. *Securities and Exchange Commission,* the D.C. Circuit stated as follows: ''[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers'. . . .''.[29] Accordingly, the Exchange does not believe its proposed fee change imposes any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [30] and paragraph (f) of Rule 19b–4 [31] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–CboeEDGA–2024–007 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–CboeEDGA–2024–007. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–CboeEDGA–2024–007 and should be submitted on or before April 8, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[32]

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2024–05638 Filed 3–15–24; 8:45 am]

BILLING CODE 8011–01–P

[28] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

[29] *NetCoalition* v. *SEC,* 615 F.3d 525, 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782–83 (December 9, 2008) (SR–NYSEArca–2006–21)).

[30] 15 U.S.C. 78s(b)(3)(A).

[31] 17 CFR 240.19b–4(f).

[32] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2023–1485; Summary Notice No. 2024–10]

Petition for Exemption; Summary of Petition Received; HAECO Cabin Solutions, LLC

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petition for exemption received.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of Federal Aviation Regulations. The purpose of this notice is to improve the public's awareness of, and participation in, the FAA's exemption process. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number and must be received on or before April 8, 2024.

ADDRESSES: Send comments identified by docket number FAA–2023–1485 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.

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments,

without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

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: Michael H. Harrison, AIR–646, Federal Aviation Administration, phone 206–231–3368, email *michael.harrison@faa.gov.*

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on March 12, 2024.

Daniel J. Commins,

Manager, Integration and Performance Branch, Policy and Standards Division, Aircraft Certification Service.

Petition for Exemption

Docket No.: FAA–2023–1485.

Petitioner: HAECO Cabin Solutions, LLC (HAECO).

Section(s) of 14 CFR Affected: § 25.813(e).

Description of Relief Sought: HAECO is seeking relief from the affected section listed above, which requires that no door may be installed between any passenger compartments. Specifically, HAECO is proposing to install doors between passenger compartments for the purpose of installing mini-suites on Boeing Model 737–8 airplanes.

[FR Doc. 2024–05721 Filed 3–15–24; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Availability of the Final Tiered Environmental Assessment and Finding of No Significant Impact for SpaceX Starship Indian Ocean Landings

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

ACTION: Notice of availability.

SUMMARY: In accordance with the National Environmental Policy Act of 1969, as amended (NEPA), Council on Environmental Quality NEPA-implementing regulations, and FAA Order 1050.1F, *Environmental Impacts: Policies and Procedures,* the FAA is announcing the availability of the Final Tiered Environmental Assessment and Finding of No Significant Impact/Record of Decision for SpaceX Starship Indian Ocean Landings (Final Tiered EA and FONSI/ROD).

FOR FURTHER INFORMATION CONTACT: Amy Hanson, Environmental Protection Specialist, Federal Aviation Administration, 800 Independence Avenue SW, Suite 325, Washington, DC 20591; phone 847–243–7609; email *amy.hanson@faa.gov.*

SUPPLEMENTARY INFORMATION: The FAA is the lead agency. The FAA evaluated SpaceX's proposal to land its Starship vehicle in the Indian Ocean. The proposal would require the FAA to modify SpaceX's vehicle operator license along with potential renewals and modifications to the license within the scope of operations. SpaceX's Proposed Action is to analyze the potential for up to a total of ten nominal operations, including up to a maximum of five overpressure events from Starship intact impact and up to a total of five reentry debris or soft water landings in the Indian Ocean, within a year of issuance of a NMFS concurrence letter.

The Final Tiered EA evaluated the potential environmental impacts of the Proposed Action and the No Action Alternative. Under the No Action Alternative, the FAA would not modify SpaceX's license for landing the Starship vehicles in the Indian Ocean. In this situation, as permitted under existing licenses, SpaceX could land the Starship vehicle at the VLA or downrange in the Gulf of Mexico, or Pacific Ocean (on a floating platform or expended in the Pacific Ocean).

The FAA has posted the Final Tiered EA and FONSI/ROD on the FAA Office of Commercial Space Transportation website: *https://www.faa.gov/space/stakeholder_engagement/spacex_starship.*

Issued in Washington, DC, on: March 12, 2024.

Stacey M. Zee,

Manager, Operations Support Branch.

[FR Doc. 2024–05648 Filed 3–15–24; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Bureau of the Fiscal Service

Proposed Extension of Information Collection Request Submitted for Public Comment; Comment Request Relating To Improving Customer Experience (OMB Circular A–11, Section 280 Implementation)

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently the Bureau of the Fiscal Service within the Department of the Treasury is soliciting comments relating to Improving Customer Experience (OMB Circular A–11, Section 280 Implementation).

DATES: Written comments should be received on or before May 17, 2024 to be assured of consideration.

ADDRESSES: Direct all written comments and requests for additional information to Bureau of the Fiscal Service, Bruce A. Sharp, Room #4006–A, P.O. Box 1328, Parkersburg, WV 26106–1328, or *bruce.sharp@fiscal.treasury.gov.*

SUPPLEMENTARY INFORMATION:

Title: Improving Customer Experience (OMB Circular A–11, Section 280 Implementation).

OMB Number: 1530–0073.

Abstract: A modern, streamlined, and responsive customer experience means: Raising government-wide customer experience to the average of the private sector service industry; developing indicators for high-impact Federal programs to monitor progress towards excellent customer experience and mature digital services; and providing the structure (including increasing transparency) and resources to ensure customer experience is a focal point for Bureau of the Fiscal Service leadership. To support this, OMB Circular A–11 Section 280 established government-wide standards for mature customer experience organizations in government and measurement. To enable Federal programs to deliver the experience taxpayers deserve, they must undertake three general categories of activities: conduct ongoing customer research, gather and share customer feedback, and test services and digital products.

These data collection efforts may be either qualitative or quantitative in

nature or may consist of mixed methods. Additionally, data may be collected via a variety of means, including but not limited to electronic or social media, direct or indirect observation (*i.e.,* in person, video and audio collections), interviews, questionnaires, surveys, and focus groups. Bureau of the Fiscal Service will limit its inquiries to data collections that solicit strictly voluntary opinions or responses. Steps will be taken to ensure anonymity of respondents in each activity covered by this request.

The results of the data collected will be used to improve the delivery of Federal services and programs. It will include the creation of personas, customer journey maps, and reports and summaries of customer feedback data and user insights. It will also provide government-wide data on customer experience that can be displayed on *performance.gov* to help build transparency and accountability of Federal programs to the customers they serve.

As a general matter, these information collections will not result in any new system of records containing privacy information and will not ask questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

The Bureau will collect this information by electronic means when possible, as well as by mail, fax, telephone, technical discussions, and in-person interviews. The Bureau may also utilize observational techniques to collect this information.

Affected Public: Collections will be targeted to the solicitation of opinions from respondents who have experience with the program or may have experience with the program in the near future. For the purposes of this request, ''customers'' are individuals, businesses, and organizations that interact with a Bureau of the Fiscal Service or program, either directly or via a Federal contractor. This could include individuals or households; businesses or other for-profit organizations; not-for profit institutions; State, local or tribal governments; Federal government; and Universities.

Current Actions: Extension of a currently approved collection.

Type of Review: Regular.

Estimated Number of Respondents: 500,250.

Estimated Time per Respondent: Varied, dependent upon the data collection method used. The possible response time to complete a questionnaire or survey may be 3 minutes or up to 1.5 hours to participate in an interview.

Estimated Total Annual Burden Hours: 25,275.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: 1. 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; 2. the accuracy of the agency's estimate of the burden of the collection of information; 3. ways to enhance the quality, utility, and clarity of the information to be collected; 4. 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 5. estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: March 12, 2024.

Bruce A. Sharp,

Bureau PRA Clearance Officer.

[FR Doc. 2024–05657 Filed 3–15–24; 8:45 am]

BILLING CODE 4810–AS–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Actions

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of one or more persons that have been placed on OFAC's Specially Designated Nationals and Blocked Persons List (SDN List) based on OFAC's determination that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of these persons are blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

DATES: See **SUPPLEMENTARY INFORMATION** section for effective dates.

FOR FURTHER INFORMATION CONTACT: OFAC: Bradley Smith, Director, tel.: 202–622–2490; Associate Director for Global Targeting, tel.: 202–622–2420; Assistant Director for Licensing, tel.: 202–622–2480; Assistant Director for Regulatory Affairs, tel.: 202–622–4855; or Assistant Director for Compliance, tel.: 202–622–2490.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The SDN List and additional information concerning OFAC sanctions programs are available on OFAC's website (*ofac.treasury.gov*).

Notice of OFAC Action(s)

On March 12, 2024, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following persons are blocked under the relevant sanctions authority listed below:

Individuals

1. ALSHOFA, Ali Abdulnabi Ahmed Ebrahim M (a.k.a. AL–SHUFA, 'Ali 'Abd-al-Nabi), Iran; DOB 25 Jul 1991; nationality Bahrain; Gender Male; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Passport 1934514 (Bahrain) expires 15 Apr 2019; National ID No. 910707480 (Bahrain) (individual) [SDGT] (Linked To: AL–ASHTAR BRIGADES).

Designated pursuant to section 1(a)(iii)(C) of Executive Order 13224 of September 23, 2001, ''Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism,'' 66 FR 49079, as amended by Executive Order 13886 of September 9, 2019, ''Modernizing Sanctions To Combat Terrorism,'' 84 FR 48041 (E.O. 13224, as amended), for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or service to or in support of, AL–ASHTAR BRIGADES, a person whose property and interests in property are blocked pursuant to E.O. 13224.

2. SALMAN, Isa Saleh Isa Mohamed (a.k.a. SALMAN, Isa Salih Isa Muhammad), Iran; DOB 30 May 1981; nationality Bahrain; Gender Male; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Passport 2108802 (Bahrain) expires 16 May 2022 (individual) [SDGT] (Linked To: AL–ASHTAR BRIGADES).

Designated pursuant to section 1(a)(iii)(C) of E.O. 13224, as amended, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or service to or in support of, AL–ASHTAR BRIGADES, a person whose property and interests in property are blocked pursuant to E.O. 13224.

3. SARHAN, Hasan Ahmed Radhi Husain (a.k.a. SARHAN, Hasan Ahmad Radi), Iran; DOB 11 Dec 1990; nationality Bahrain; Gender Male; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Passport 1866849 (Bahrain) expires 28 Sep 2015; National ID No. 901206679 (Bahrain) (individual) [SDGT] (Linked To: AL–ASHTAR BRIGADES).

Designated pursuant to section 1(a)(iii)(C) of E.O. 13224, as amended, for having materially assisted, sponsored, or provided

financial, material, or technological support for, or goods or service to or in support of, AL–ASHTAR BRIGADES, a person whose property and interests in property are blocked pursuant to E.O. 13224.

4. AL–DAMMAMI, Hussein Ahmad 'Abdallah Ahmad Hussein (a.k.a. HUSAIN, Husain Ahmed Abdulla Ahmed), Iran; Syria; DOB 16 Nov 1989; nationality Bahrain; Gender Male; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Passport 1442486 (Bahrain) expires 01 Nov 2017 (individual) [SDGT] (Linked To: AL–ASHTAR BRIGADES).

Designated pursuant to section 1(a)(iii)(C) of E.O. 13224, as amended, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or service to or in support of, AL–ASHTAR BRIGADES, a person whose property and interests in property are blocked pursuant to E.O. 13224.

Dated: March 12, 2024.

Bradley T. Smith,

Director, Office of Foreign Assets Control, U.S. Department of the Treasury.

[FR Doc. 2024–05620 Filed 3–15–24; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Extension of Information Collection Request Submitted for Public Comment; Comment Request on Burden Associated With Diesel Fuel and Kerosene Excise Tax; Dye Injection

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently, the IRS is soliciting comments concerning the burden associated with diesel fuel and kerosene excise tax, dye injection.

DATES: Written comments should be received on or before May 17, 2024 to be assured of consideration.

ADDRESSES: Direct all written comments to Andrés Garcia, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or by email to *pra.comments@irs.gov.* Please include, ''OMB Number: 1545–1418—Public Comment Request Notice'' in the Subject line.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Ronald J. Durbala, at (202) 317–5746, at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet at *RJoseph.Durbala@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Diesel Fuel and Kerosene Excise Tax; Dye Injection.

OMB Number: 1545–1418.

Regulation Project Number: TD 9199.

Abstract: This document contains regulations relating to the diesel fuel and kerosene excise tax. These regulations reflect changes made by the American Jobs Creation Act of 2004 regarding mechanical dye injection systems for diesel fuel and kerosene. These regulations affect certain enterers, refiners, terminal operators, and throughputters.

Current Actions: There are no changes to the burden previously approved by OMB. This request is to extend the current approval for another 3 years.

Type of Review: Extension of a currently approved collection.

Affected Public: Business and other for-profit organizations.

Estimated Number of Respondents: 1.

Estimated Time per Respondent: 1 hr.

Estimated Total Annual Burden Hours: 1.

The following paragraph applies to all the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained if their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Desired Focus of Comments: The Internal Revenue Service (IRS) is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* by permitting electronic submissions of responses.

Comments submitted in response to this notice will be summarized and/or included in the ICR for OMB approval of the extension of the information collection; they will also become a matter of public record.

Approved: March 12, 2024.

Ronald J. Durbala,

IRS Tax Analyst.

[FR Doc. 2024–05642 Filed 3–15–24; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Privacy Act of 1974; System of Records

AGENCY: Departmental Offices, Department of the Treasury.

ACTION: Notice of a modified system of records.

SUMMARY: In accordance with the Privacy Act of 1974, the Department of the Treasury (''Treasury'' or the ''Department''), Departmental Offices on January 26, 2024, published a notice in the **Federal Register** proposing to modify a current Treasury system of records titled, ''Department of the Treasury, Departmental Offices .214—DC Pensions Retirement Records'' System of Records. This system of records is a collection of information used by the Office of DC Pensions to administer certain District of Columbia (''District'') retirement plans, and the modification of the system of records notice is being published in order to clarify and update the description of the system of records. This notice adopts the proposed modified system of records with minor modifications in response to a public comment.

DATES: The modification of the system of records notice is applicable on March 18, 2024.

ADDRESSES: Deputy Assistant Secretary for Privacy, Transparency, and Records, Department of the Treasury, 1500 Pennsylvania Avenue NW, Washington, DC 20220, Attention: Revisions to Privacy Act Systems of Records.

FOR FURTHER INFORMATION CONTACT: For general questions, please contact:

Shalamar Barnes, 202–622–6173, the Office of DC Pensions, Departmental Offices, 1500 Pennsylvania Avenue NW, Washington, DC 20220. For privacy issues, please contact: the Deputy Assistant Secretary for Privacy, Transparency, and Records (202–622–5710), Department of the Treasury, 1500 Pennsylvania Avenue NW, Washington, DC 20220.

SUPPLEMENTARY INFORMATION: On January 26, 2024, the Department of the Treasury, Departmental Offices, published a modification of a system of records notice (''SORN'') in the **Federal Register**, 89 FR 5305, proposing to modify a current Treasury system of records titled, ''Department of the Treasury, Departmental Offices .214—DC Pensions Retirement Records'' System of Records.

The modification updated the system of records to reflect current procedures. The system of records is collecting information under the Paperwork Reduction Act using the following forms:

- Health Benefits Registration Form (SF 2809) OMB No. 3206–0160 (expiration 7/31/2025)
- Life Insurance Election-FEGLI (SF 2817) OMB No. 3206–0230 (expiration 9/30/2024)
- Designation of Beneficiary Federal Group Life Insurance (FEGLI) Program (SF 2823) OMB No. 3206–0136 (expiration 12/31/2023)
- Withholding Certificate for Pension or Annuity Payments (W–4P) OMB No. 1545–0074 (expiration 12/31/2023)
- Withholding Certificate for Nonperiodic Payments and Eligible Rollover Distributions (W–4R) OMB No. 1545–0074 (expiration 12/31/2023)

Treasury will include this modified system in its inventory of record systems.

Below is the description of the Treasury, Departmental Offices .214—DC Pensions Retirement Records System of Records.

Treasury has provided a report of this system of records to the Committee on Oversight and Government Reform of the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, and the Office of Management and Budget (OMB), pursuant to 5 U.S.C. 552a(r) and OMB Circular A–108, ''Federal Agency Responsibilities for Review, Reporting, and Publication under the Privacy Act,'' dated December 23, 2016.

Public Comments

Treasury received one comment on the SORN. The comment stated, ''We respectfully request that the Department of the Treasury update these regulations to replace the term 'physician' with 'licensed health care professional.' This will maintain the privacy protection that is in place, while also ensuring that an individual who selects a nurse practitioner, or other licensed health care professional, as their provider of choice, is authorized to designate that clinician as the recipient of their medical records.''

In response to the comment, in this notice, Treasury replaced references to ''physician'' with ''health professional.''

Ryan Law,

Deputy Assistant Secretary for Privacy, Transparency, and Records.

SYSTEM NAME AND NUMBER:

Department of the Treasury, DO .214—DC Pensions Retirement Records

SECURITY CLASSIFICATION:

Unclassified

SYSTEM LOCATION:

The records are maintained at the Office of DC Pensions, Department of the Treasury, in Washington, DC and the Bureau of the Fiscal Service in Parkersburg, WV, Kansas City, MO, and privately run secure storage facilities in various States.

SYSTEM MANAGER(S):

Director, Office of DC Pensions, U.S. Department of the Treasury, 1500 Pennsylvania Avenue NW, Washington, DC 20220.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title XI, subtitle A, chapters 1 through 9, and subtitle C, chapter 4, subchapter B of the Balanced Budget Act of 1997, Public Law 105–33 (as amended); 31 U.S.C 321; and 5 U.S.C. 301.

PURPOSE(S) OF THE SYSTEM:

These records may provide information on which to base determinations of (1) eligibility for, and computation of, benefit payments and refund of contribution payments; (2) direct deposit elections into a financial institution; (3) eligibility and premiums for health insurance and group life insurance; (4) withholding of income taxes; (5) under- or over-payments to recipients of a benefit payment (6) the recipient's ability to repay an overpayment; (7) the Federal payment made from the General Fund to the District of Columbia Teachers, Police Officers and Firefighters Federal Pension Fund and the District of Columbia Judicial Retirement and Survivors Annuity Fund; (8) the impact on benefit payments due to proposed Federal and/or District legislative changes; (9) the District or Federal liability for benefit payments to former District police officers, firefighters, teachers, and judges, including survivors, dependents, and beneficiaries who are receiving a Federal and/or District benefit; (10) whether someone committed fraud; and (11) the reliability of financial statements.

Consistent with Treasury's information sharing mission, information stored in DO .214—DC Retirement Records may be shared with other Treasury Bureaus, as well as appropriate Federal, State, local, Tribal, foreign, or international government agencies. This sharing will only occur after Treasury determines that the receiving Bureau or agency needs to know the information to carry out national security, law enforcement, intelligence, or other functions consistent with the routine uses set forth in this system of records notice.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(A) Current and former District of Columbia police officers, firefighters, teachers, and judges.

(B) Surviving spouses, domestic partners, children, and/or dependent parents of current and former District of Columbia police officers, firefighters, teachers, or judges, as applicable.

(C) Former spouses and domestic partners of current and former District of Columbia police officers, firefighters, teachers, or judges, as applicable.

(D) Designated beneficiaries of items A, B, and C.

(E) Non-annuitant debtors.

CATEGORIES OF RECORDS IN THE SYSTEM:

The categories of records include, but are not limited to, identifying information such as: name(s); contact information; mailing address; Social Security number; employee identification number; service beginning and end dates; annuity beginning and end dates; date of birth; sex; retirement plan; base pay; average base pay; final salary; type(s) of service and dates used to compute length of service; military base pay amount; purchase of service calculation and amount; and/or benefit payment amount(s). The types of records in the system may be:

(a) Documentation comprised of service history/credit, personnel data, retirement contributions, and/or a refund claim upon which a benefit payment(s) may be based.

(b) Medical records and supporting evidence for disability retirement applications and continued eligibility,

and documentation regarding the acceptance or rejection of such applications.

(c) Records submitted by a surviving spouse, a domestic partner, a child(ren), and/or a dependent parent(s) in support of claims to a benefit payment(s).

(d) Records related to the withholding of income tax from a benefit payment(s).

(e) Retirement applications, including supporting documentation, and acceptance or denial of such applications.

(f) Death benefit applications, including supporting documentation, submitted by a surviving spouse, domestic partner, child(ren), former spouse, and/or beneficiary, that is required to determine eligibility for and receipt of a benefit payment(s), or denial of such claims.

(g) Documentation of enrollment and/or change in enrollment for health and life insurance benefits/eligibility.

(h) Designation(s) of a beneficiary(ies) for a life insurance benefit and/or an unpaid benefit payment.

(i) Court orders submitted by former spouses or domestic partners in support of claims to a benefit payment(s).

(j) Records relating to under- and/or over-payments of benefit payments.

(k) Records relating to the refunds of employee contributions.

(l) Records relating to child support orders, bankruptcies, tax levies, and garnishments.

(m) Records used to determine a total benefit payment and/or if the benefit payment is a District or Federal liability.

(n) Correspondence received from individuals covered by the system.

(o) Records relating to time served on behalf of a recognized labor organization.

(p) Records relating to benefit payment enrollment and/or change to enrollment for direct deposit to an individual's financial institution.

(q) Records relating to educational program enrollments of age 18 and older children of former police officers, firefighters, teachers, and judges.

(r) Records relating to the mental or physical disability condition of age 18 and older children of former police officers, firefighters, teachers, and judges.

(s) Records relating to a debtor's financial information, including financial disclosure forms, credit reports, tax filings, bank statements, and financial obligations.

RECORD SOURCE CATEGORIES:

The information in this system is obtained from:

a. The individual, or their representative, to whom the information pertains.

b. District pay, leave, and allowance records.

c. Health benefits and life insurance plan records maintained by the Office of Personnel Management, the District, and health and life insurance carriers.

d. Federal civilian retirement systems.

e. Military retired pay system records.

f. Social Security Old Age, Survivor, and Disability Insurance and Medicare Programs.

g. Official personnel folders.

h. Health professionals who have examined or treated the individual.

i. Surviving spouse, domestic partners, child(ren), former spouse(s), former domestic partner(s), and/or dependent parent(s) of the individual to whom the information pertains.

j. State courts or support enforcement agencies.

k. Credit bureaus and financial institutions.

l. Government Offices of the District of Columbia, including the District of Columbia Retirement Board.

m. The General Services Administration National Payroll Center.

n. The Department of the Interior Payroll Office.

o. Educational institutions.

p. Other components of the Department of the Treasury.

q. The Department of Justice.

r. Death reporting sources.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under the Privacy Act of 1974, 5 U.S.C. 552a(b) records and/or information or portions thereof maintained as part of this system may be disclosed outside Treasury as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

(1) To the United States Department of Justice (''DOJ''), for the purpose of representing or providing legal advice to the Department in a proceeding before a court, adjudicative body, or other administrative body before which the Department is authorized to appear, when such proceeding involves:

(a) The Department or any component thereof;

(b) Any employee of the Department in his or her official capacity;

(c) Any employee of the Department in his or her individual capacity where the Department of Justice or the Department has agreed to represent the employee; or

(d) The United States, when the Department determines that litigation is likely to affect the Department or any of its components; and the use of such records by the DOJ is deemed by the DOJ or the Department to be relevant and necessary to the litigation provided that the disclosure is compatible with the purpose for which records were collected.

(2) To an appropriate Federal, State, local, Tribal, foreign, or international agency, if the information is relevant and necessary to a requesting agency's decision concerning the hiring or retention of an individual, or issuance of a security clearance, background investigation, license, contract, grant, or other benefit, or if the information is relevant and necessary to a DC Pension decision concerning the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit and when disclosure is appropriate to the proper performance of the official duties of the person making the request.

(3) To a Congressional office in response to an inquiry made at the request of the individual to whom the record pertains;

(4) To the National Archives and Records Administration Archivist (or Archivist's designee) pursuant to records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906;

(5) To appropriate agencies, entities, and persons when (1) the Department of the Treasury suspects or has confirmed that there has been a breach of the system of records; (2) the Department of the Treasury has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the Department of the Treasury (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department of the Treasury's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm;

(6) To another Federal agency or Federal entity, when the Department of the Treasury determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach;

(7) To disclose information to another Federal agency, to a court, or to a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency, when the Federal Government is a party to the judicial or administrative proceeding. In those cases where the Federal Government is not a party to the proceeding, records may not be disclosed unless the party complies with the requirements of 31 CFR 1.11;

(8) To disclose information to contractors, subcontractors, financial agents, grantees, auditors, actuaries, interns, or volunteers performing or working on a contract, service, grant, cooperative agreement, or job for the Department, or the District;

(9) To disclose information needed to adjudicate a claim for benefit payments or information needed to conduct an analytical study of benefits being paid under such programs as: Social Security Administration's Old Age, Survivor, and Disability Insurance and Medical Programs; military retired pay programs; and Federal civilian employee retirement programs (Civil Service Retirement System, Federal Employees Retirement System, and other Federal retirement systems);

(10) To disclose to the U.S. Office of Personnel Management (OPM) and to the District, information necessary to verify the election, declination, or waiver of basic and/or optional life insurance coverage, or coordinate with contract carriers the benefit provisions of such coverage;

(11) To disclose to health insurance carriers contracting with OPM to provide a health benefits plan under the Federal Employees Health Benefits Program or health insurance carriers contracting with the District to provide a health benefits plan under the health benefits program for District employees, Social Security numbers and other information necessary to identify enrollment in a plan, to verify eligibility for payment of a claim for health benefits, or to carry out the coordination for benefits provisions of such contracts;

(12) To disclose health insurance enrollment information to OPM. OPM provides this enrollment information to their health care carriers who provide a health benefits plan under the Federal Employees Health Benefits Program, or health insurance carriers contracting with the District to provide a health benefits plan under the health benefits program for District employees, Social Security numbers and other information necessary to identify enrollment in a plan, to verify eligibility for payment of a claim for health benefits, or to carry out the coordination for benefits provisions of such contracts;

(13) To disclose to certain people possibly entitled to a benefit payment information that is contained in the record of a deceased current or former police officer, firefighter, teacher, or judge to assist in properly determining the eligibility and amount of a benefit payment to a surviving recipient, or information that results from such determination;

(14) To disclose to any person who is legally responsible for the care of an individual to whom a record pertains, or who otherwise has an existing, facially-valid power of attorney, including care of an individual who is mentally incompetent or under other legal disability, information necessary to assure application or payment of benefits to which the individual may be entitled;

(15) To disclose to the Parent Locator Service of the Department of Health and Human Services, upon its request, the present address of an individual covered by the system needed for enforcing child support obligations of such individual;

(16) In connection with an examination ordered by the District or the Department under:

(a) Medical examination procedures; or

(b) Involuntary disability retirement procedures to disclose to the representative of an employee, notices, decisions, other written communications, or any other pertinent medical evidence other than medical evidence about which a prudent health professional would hesitate to inform the individual; such medical evidence will be disclosed only to a health professional, designated in writing for that purpose by the individual or his or her representative. The health professional must be capable of explaining the contents of the medical record(s) to the individual and be willing to provide the entire record(s) to the individual;

(17) To disclose information to any source from which the Department seeks additional information that is relevant to a determination of an individual's eligibility for, or entitlement to, coverage under the applicable retirement, life insurance, and health benefits program, to the extent necessary to obtain the information requested;

(18) To disclose information to the Office of Management and Budget (OMB) at any stage of the legislative coordination and clearance process in connection with private relief legislation as set forth in OMB Circular No. A–19;

(19) To disclose to Federal, State, and local government agencies responsible for the collection of income taxes the information required to implement voluntary income tax withholdings from benefit payments;

(20) To disclose to the Social Security Administration the names and Social Security numbers of individuals covered by the system when necessary to determine (1) their vital status as shown in the Social Security Master Records and (2) whether retirees receiving benefit payments under the District's retirement plan for police officers and firefighters with post-1956 military service credit are eligible for or are receiving old age or survivors benefits under section 202 of the Social Security Act based upon their wages and self-employment income;

(21) To disclose to Federal, State, and local government agencies information to help eliminate fraud and abuse in a benefits program administered by a requesting Federal, State, or local government agency; to ensure compliance with Federal, State, and local government tax obligations by persons receiving benefits payments; and/or to collect debts and overpayments owed to the requesting Federal, State, or local government agency;

(22) To disclose to a Federal agency, or a person or an organization under contract with a Federal agency to render collection services for a Federal agency as permitted by law, in response to a written request from the head of the agency or his designee, or from the debt collection contractor, data concerning an individual owing a debt to the Federal Government;

(23) To disclose, as permitted by law, information to a State court or administrative agency in connection with a garnishment, attachment, or similar proceeding to enforce alimony or a child support obligation;

(24) To disclose information necessary to locate individuals who are owed money or property by a Federal, State, or local government agency, or by a financial institution or similar institution, to the government agency owing or otherwise responsible for the money or property (or its agent);

(25) To disclose information necessary in connection with the review of a disputed claim for health benefits to a health plan provider participating in the Federal Employees Health Benefits Program or the health benefits program for District employees, and to a program enrollee or covered family

member or an enrollee or covered family member's authorized representative;

(26) To disclose information to another Federal agency for the purpose of effecting administrative or salary offset against a person employed by that agency, or who is receiving or eligible to receive benefit payments from the agency when the Department as a creditor has a claim against that person relating to benefit payments;

(27) To disclose information concerning delinquent debts relating to benefit payments to other Federal agencies for the purpose of barring delinquent debtors from obtaining Federal loans or loan insurance guarantees pursuant to 31 U.S.C. 3720B;

(28) To disclose to Federal, State, and local government agencies information used for collecting debts relating to benefit payments;

(29) To disclose to appropriate agencies, entities, and persons when:

(a) The Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; or

(b) The Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and

(c) The disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm;

(30) To disclose to a former spouse information necessary to explain how his/her former spouse's benefit was computed;

(31) To disclose to a surviving spouse, domestic partner, surviving child, dependent parent, and/or legal guardian information necessary to explain how his/her survivor benefit was computed; and

(32) To disclose to a spouse, domestic partner, or dependent child (or court-appointed guardian thereof) of an individual covered by the system, upon request, whether the individual:

(a) changed his/her health insurance coverage and/or changed life insurance benefit enrollment, or

(b) received a lump-sum refund of his/her retirement contributions.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Paper records in this system are stored in secure facilities in a locked drawer, behind a locked door. Electronic records are stored on magnetic disc, tape, digital media, and CD–ROM in secure facilities.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records may be retrieved by various combinations of name; date of birth; Social Security number; and/or an automatically assigned, system-generated number of the individual to whom they pertain.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

In accordance with National Archives and Records Administration (NARA) retention schedule, N1–056–09–001, certain records will be destroyed after 115 years from the date of the former police officer's, firefighter's, teacher's or judge's birth; or 30 years after the date of his/her death, if no application for benefits is received. Under that retention schedule, if a survivor or former spouse receives a benefit payment, such record will be destroyed after his/her death. All other records covered by this system will be destroyed in accordance with approved Federal and Department guidelines. Paper records will be destroyed by shredding or burning. Records in electronic media will be electronically erased using NARA guidelines.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Records in this system are safeguarded in accordance with applicable rules and policies, including all applicable Treasury automated systems security and access policies. Strict controls have been imposed to minimize the risk of compromising the information that is being stored. Access to the computer system containing the records in this system is limited to those who ''need-to-know'' the information for the performance of their official duties and who have appropriate clearances or permissions.

RECORD ACCESS PROCEDURES:

See ''Notification Procedures'' below.

CONTESTING RECORD PROCEDURES:

See ''Notification Procedures'' below.

NOTIFICATION PROCEDURES:

When seeking records about yourself from this system of records or any other Departmental system of records your request must conform with the Privacy Act regulations set forth in 31 CFR part 1.36. You must first verify your identity, meaning that you must provide your full name, current address and date and place of birth. You must sign your request, and your signature must either be notarized or submitted under 28 U.S.C. 1746, a law that permits statements to be made under penalty of perjury as a substitute for notarization. In addition, you should provide the following:

- An explanation of why you believe the Department would have information on you;
- Identify which bureau(s) of the Department you believe may have the information about you;
- Specify when you believe the records would have been created;
- Provide any other information that will help the Bureau or Freedom of Information Act staff determine which Treasury Bureau may have responsive records; and
- If your request is seeking records pertaining to another living individual, you must include a statement from that individual certifying his/her agreement for you to access his/her records.

Without this bulleted information the Office of DC Pensions may not be able to conduct an effective search, and your request may be denied due to lack of specificity or lack of compliance with applicable regulations.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

Notice of this system of records was last published in full in the **Federal Register** on March 9, 2021 at 86 FR 13611, as the Department of the Treasury, Departmental Offices .214—DC Pensions Retirement Records.

[FR Doc. 2024–05651 Filed 3–15–24; 8:45 am]

BILLING CODE 4810–AK–P

DEPARTMENT OF THE TREASURY

Treasury Tribal Advisory Committee

AGENCY: Department of the Treasury.

ACTION: Notice.

SUMMARY: The Unfunded Mandates Reform Act of 1995 (UMRA) provides an exemption from the Federal Advisory Committee Act (FACA), for intergovernmental consultations and this now applies to the Treasury Tribal Advisory Committee (TTAC). Therefore, the TTAC will not operate pursuant to the requirements of the FACA so long as this exemption applies.

DATES: This exemption is effective as of March 18, 2024.

FOR FURTHER INFORMATION CONTACT: Fatima Abbas, the Designated Federal Officer (''DFO'') for the TTAC, U.S. Department of the Treasury, 1500 Pennsylvania Ave. NW, Washington, DC 20020; via phone/voice mail at: (202) 622–1067; or via email at: *fatima.abbas@treasury.gov.* Persons who have difficulty hearing or speaking may access this number via TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION: The TTAC was established pursuant to the Tribal General Welfare Exclusion Act of 2014 (Pub. L. 113–168, or TGWEA). The TTAC advises the Secretary on matters related to the taxation of Indians, training, and education for Internal Revenue Service field agents who administer and enforce internal revenue laws with respect to Indian tribes; and training and technical assistance for tribal financial officers. The Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1501 *et seq.* (UMRA), provides an exemption from FACA, 5 U.S.C. 1001 *et seq.,* for intergovernmental consultations. The exemption applies to meetings between Federal officials and elected officers of State, local, and tribal governments (or their designated employees with authority to act on their behalf) acting in their official capacities; and that relate to the management or implementation of Federal programs established pursuant to public law that explicitly or inherently share intergovernmental responsibilities or administration. The TTAC is comprised of seven members with four being appointed by Congress and three being appointed by the Secretary. Until recently, the TTAC members did not meet the standard to apply the UMRA's exemption from FACA for intergovernmental consultations. Over the past two years, the terms of the appointed committee members have expired, and the Secretary and Congress have reappointed three past members and appointed four new members. All seven of the reappointed or newly appointed TTAC members are elected tribal government officials or tribal government program officers. Therefore, the UMRA's exemption from the FACA for intergovernmental consultations now applies to the TTAC for as long as the members continue to meet its requirements.

Meetings

The TTAC estimates that it will hold three in-person/hybrid meetings annually that will be open to the Tribal public. The Tribal public is defined as Tribal leaders, Tribal citizens, and Tribal and Native organizations. Notice of these Tribal public meetings will be given via the Office of Tribal and Native Affairs (OTNA) newsletter and published on the TTAC's web page. A transcript of the Tribal public meetings will be posted to Treasury's TTAC website.

The TTAC also may decide to meet as frequently as necessary outside of Tribal public meetings. Notice of these meetings will be given to TTAC members via email correspondence. The OTNA will keep internal notes for these meetings.

Marilynn Malerba,

Treasurer of the United States.

[FR Doc. 2024–05720 Filed 3–15–24; 8:45 am]

BILLING CODE 4810–AK–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0394]

Agency Information Collection Activity Under OMB Review: Certification of School Attendance—REPS

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and it includes the actual data collection instrument.

DATES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice 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. Refer to ''OMB Control No. 2900–0394''.

FOR FURTHER INFORMATION CONTACT: Maribel Aponte, Office of Enterprise and Integration, Data Governance Analytics (008), 810 Vermont Ave. NW, Washington, DC 20420, (202) 266–4688 or email *maribel.aponte@va.gov.* Please refer to ''OMB Control No. 2900–0394'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Authority: 38 U.S.C. 5101.

Title: Certification of School Attendance—REPS, 21P–8926.

OMB Control Number: 2900–0394.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 21P–0826 is primarily used to gather necessary information to determine a claimant's continued eligibility for REPS benefits. The information on the form is necessary to determine if the claimant is enrolled full-time in an approved school and are otherwise eligible under the REPS eligibility criteria. Without this information, determination of continued entitlement would not be possible. This is an extension with no substantive changes to the form. There has been no burden change since the last approval.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 89 FR 1147 on Tuesday, January 9, 2024, pages 1147 and 1148.

Affected Public: Individuals or households.

Estimated Annual Burden: 300 hours.

Estimated Average Burden per Respondent: 15 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 1,200.

By direction of the Secretary.

Maribel Aponte,

VA PRA Clearance Officer, Office of Enterprise and Integration, Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2024–05627 Filed 3–15–24; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

Vol. 89 Monday,
No. 53 March 18, 2024

Part II

Department of Agriculture

Rural Housing Service

Section 514 Off-Farm Labor Housing Subsequent Loans and Section 516 Off-Farm Labor Housing Subsequent Grants To Improve, Repair, or Make Modifications to Existing Off-Farm Labor Housing Properties for Fiscal Year 2024; Notice

DEPARTMENT OF AGRICULTURE

Rural Housing Service

[Docket No.: RHS–24–MFH–0008]

Section 514 Off-Farm Labor Housing Subsequent Loans and Section 516 Off-Farm Labor Housing Subsequent Grants To Improve, Repair, or Make Modifications to Existing Off-Farm Labor Housing Properties for Fiscal Year 2024

AGENCY: Rural Housing Service, USDA.

ACTION: Notice of solicitation of applications (NOSA).

SUMMARY: The Rural Housing Service (RHS or Agency), a Rural Development (RD) agency of the United States Department of Agriculture (USDA), announces that it is accepting applications for subsequent Section 514 Off-Farm Labor Housing (Off-FLH) loans and subsequent Section 516 Off-FLH grants to improve, repair, or make modifications to existing Off-Farm Labor Housing Properties for fiscal year 2024. This Notice describes the method used to distribute funds, the application process, and submission requirements.

DATES: Eligible applications submitted to the Production and Preservation Division, Processing and Report Review Branch, for this Notice will be accepted until June 18, 2024, 12 p.m., Eastern Time. Applications that are deemed eligible but are not selected for further processing due to inadequate funding will be withdrawn from processing. RHS will not consider any application that is received after the established deadlines unless the date and time are extended by another Notice published in the **Federal Register**. The RHS may at any time supplement, extend, amend, modify, or supersede this Notice by publishing another Notice in the **Federal Register**. Additional information about this funding opportunity can be found on the *Grants.gov* website at *https://www.grants.gov.*

At least three business days prior to the application deadline, the applicant must email the RHS a request to create a shared folder in CloudVault. Please refer to the **ADDRESSES** section of this notice for further details.

The application deadlines are as follows:

1. Available loan and grant funding posted to the MFH website by March 18, 2024.

2. Applications must be submitted by June 18, 2024, 12 p.m., Eastern Time.

3. Awards and non-selections communicated to applicants by September 30, 2024.

4. Awards posted to the RHS website by October 15, 2024.

Concept meetings will be scheduled between the dates of April 1, 2024 and April 29, 2024. No concept meetings will be scheduled outside of the specified dates.

Requests for concept meetings can be sent to the following email address: *MFHprocessing1@usda.gov* and must be received by April 15, 2024. Please refer to Section E. Applicant Assistance of this notice for further details.

ADDRESSES: Applications to this Notice must be submitted electronically to the Production and Preservation Division, Processing and Report Review Branch.

At least three business days prior to the application deadline, the applicant must email the RHS a request to create a shared folder in CloudVault. The email must be sent to the following address: *Off-FLHapplication@usda.gov.* The email must contain the following information:

(1) *Subject line:* ''Off-FLH Repair Application Submission.''

(2) *Body of email:* Borrower Name, Project Name, Borrower Contact Information, Project State.

(3) *Request language:* ''Please create a shared CloudVault folder so that we may submit our repair application documents.''

Once the email request to create a shared CloudVault folder has been received, a shared folder will be created within two business days. When the shared CloudVault folder is created by the RHS, the system will automatically send an email to the applicant's submission email address with a link to the shared folder. All required application documents in accordance with this Notice must be loaded into the shared CloudVault folder. The applicant's access to the shared CloudVault folder will be removed when the submission deadline is reached. Any document uploaded to the shared CloudVault folder after the application deadline will not be reviewed or considered. Please note: CloudVault is a USDA-approved cloud-based file sharing and synchronization system. CloudVault folders are neither suitable nor intended for file storage due to agency file retention policies and space limitations. Therefore, the agency will remove all application-related files stored in shared CloudVault folders the later of either 180 days from the application date, or once the application has been processed and the transaction has been closed.

For further instructions, please refer to Section C. Application and Submission Information of this Notice.

FOR FURTHER INFORMATION CONTACT: For information regarding this Notice and the Addendum: Capital Needs Assessment Process located at the end of this notice, contact: Jonathan Bell, Director, Processing and Report Review Branches, Production and Preservation Division, Multifamily Housing Programs, Rural Development, United States Department of Agriculture, via email: *MFHprocessing1@usda.gov* or telephone: (254) 727–5647. This is not a toll-free number.

SUPPLEMENTARY INFORMATION:

Rural Development: Key Priorities

RD will continue to support and promote activities and investments that will achieve the following:

(1) *Creating More and Better Markets:* Assist rural communities to recover economically through more and better market opportunities and through improved infrastructure.

(2) *Addressing Climate Change and Environmental Justice:* Reduce climate pollution and increase resilience to the impacts of climate change through economic support for rural communities.

(3) *Advancing Racial Justice, Place-Based Equity, and Opportunity:* Ensure all rural residents have equitable access to RD programs and benefits from RD funded projects. For further information, visit *https://www.rd.usda.gov/priority-points.*

Background

USDA's RD Agencies, comprising of the Rural Business-Cooperative Service (RB–CS), RHS, and the Rural Utilities Service (RUS), are leading the way in helping rural America improve the quality of life and increase the economic opportunities for rural people. RHS offers a variety of programs to build or improve housing and essential community facilities in rural areas. The Agency also offers loans, grants, and loan guarantees for single-family and multi-family housing, child-care centers, fire and police stations, hospitals, libraries, nursing homes, schools, first responder vehicles and equipment, housing for farm laborers and much more. The Agency also provides technical assistance loans and grants in partnership with non-profit organizations, Indian tribes, state and Federal Government agencies, and local communities.

Sections 514 and 516 of the Housing Act of 1949 allows the RHS to provide competitive loan and grant financing, respectively, for affordable multifamily rental housing. The program objective is to administer repair funds in a fair, equitable, and transparent manner.

Funds will be used to improve, repair, or make modifications to existing Off-FLH properties currently financed by the RHS that serve domestic farm laborers, retired domestic farm laborers, or disabled domestic farm laborers.

To focus investments in areas where the need for increased prosperity is greatest, the RHS will set aside 10 percent of the available funds for applications that will serve persistent poverty counties. The term ''persistent poverty counties'' means any county that has had 20 percent or more of its population living in poverty over the past 30 years, as measured by the 1990 and 2000 decennial censuses and 2007–2011 American Community Survey 5-year average, or any territory or possession of the United States.'' Information on which counties are considered persistent poverty counties can be found through using the following link (*https://ruraldevelopment.maps.arcgis.com/apps/webappviewer/index.html?id=a0bcd25194434ac784493fd5dc7f8191*) provided by the USDA's RD Innovation Center. Set-aside funds will be awarded in point score order, starting with the highest score. Once the set-aside funds are exhausted, any further set-aside applications will be evaluated and ranked with the other applications submitted in response to this Notice. If the RHS does not receive enough eligible applications to fully utilize the 10 percent set aside in the service of these areas, the RHS will award any unused set aside funds to other eligible applicants.

Overview

Federal Agency: Rural Housing Service.

Funding Opportunity Title: Section 514 Off-Farm Labor Housing Subsequent Loans and Section 516 Off-Farm Labor Housing Subsequent Grants to Improve, Repair, or Make Modifications to Existing Off-Farm Labor Housing Properties for Fiscal Year 2024.

Funding Opportunity Number: USDA–RD–HCFP–OFFFLH–REPAIR–2024.

Available Funds: Available subsequent loan and subsequent grant funding amounts can be found at the following link: *https://www.rd.usda.gov/programs-services/farm-labor-housing-direct-loans-grants.*

Maximum Award: Award may not exceed $40,000 per unit (total loan and grant). There is no minimum award. At the sole discretion of the RHS, the maximum award may be limited to $4,000,000 per project based on funding availability and volume of qualified applications.

Announcement Type: Request for applications from qualified applicants for Fiscal Year 2024.

Assistance Listing Number: 10.405.

Please Note: Expenses incurred in developing applications will be at the applicant's sole risk.

A. Federal Award Description

(1) Applications will only be accepted through the date and time listed in this Notice. The maximum award may not exceed $40,000 per unit per project (total loan and grant). At the sole discretion of the RHS, the maximum award may be limited to $4,000,000 per project based on funding availability and volume of qualified applications. There is no minimum award requirement. Proposals for limited improvements, repairs, and/or modifications to address accessibility compliance and health & safety issues will be considered under this Notice.

(2) A State will not receive more than 30 percent of the Off-FLH funding unless there are remaining section 514 and section 516 funds after all eligible applications from other States have been funded. In this case, funds will be awarded to the next highest-ranking eligible applications among all remaining unfunded applications nationwide. The allocation of these funds may result in a State or States exceeding the 30 percent funding limitation.

(3) Section 516 Off-FLH subsequent grants must not exceed the limits set forth in 7 CFR 3560.562(c). Total development cost (TDC) is defined in 7 CFR 3560.11. Section 514 Off-FLH loans may not exceed the limits set forth in 7 CFR 3560.562(b).

(4) Applications that propose the use of Low-Income Housing Tax Credits (LIHTC) will not be considered and are not eligible under this Notice.

(5) Any proposed leveraged funds must be in the form of a grant, non-amortizing leveraged funds, or similar funding source with no debt service. No source of leveraged funds that require a debt service is acceptable. Applications that propose the use of a grant, non-amortizing leveraged funds, or similar funding source should include firm commitment letters within their application, if available. If not included with the application, the applicant must provide firm commitment letters for any proposed leveraged funds no later than 180 calendar days from the date of issuance of the award letter under this NOSA. If the applicant is unable to secure a third-party firm commitment letter within 180 calendar days from the issuance of the award letter under this NOSA, the application will be deemed incomplete, and the award letter will be considered null and void.

(6) A firm commitment letter is defined as a lender's unqualified pledge to the applicant that they meet the lender's guidelines, and the lender is willing to offer the applicant a grant, non-amortizing leveraged funds, or similar funding source under specified terms. The letter validates that the applicant's funding has been fully approved and that the lender is prepared to close the transaction. Preliminary commitment letters, term sheets, or any other letter from the lender that does not meet the definition above for a ''firm commitment letter'' will not meet the requirements specified in this Notice.

(7) To maximize the use of the limited supply of FLH funds, the RHS may contact eligible applicants selected for an award with proposals to modify the transaction's proportions of subsequent loan and subsequent grant funds. Such applicants will be contacted in point score order, starting with the highest score. In addition, if funds remain after the highest scoring eligible applications are selected for awards, the RHS may contact those eligible applicants selected for the awards, in point score order, starting with the highest score, to ascertain whether those respondents will accept the remaining funds.

(8) To enhance customer service and the transparency of this program, the RHS will publish a list of awardees including the project name and location and the subsequent loan and/or subsequent grant amounts of their respective awards in accordance with the date listed in this Notice. This information can be found at: *https://www.rd.usda.gov/programs-services/farm-labor-housing-direct-loans-grants.* The RHS reserves the right to post all information submitted as part of the application package that is not protected under the Privacy Act on a public website with free and open access to any member of the public.

B. Eligibility Information

(1) Project Eligibility

This Notice solicits applications from the current borrowers/owners of existing Off-FLH projects currently participating in the RHS's Section 514 Off-FLH portfolio for the purpose of improving, repairing, modifying, revitalizing, and preserving the facility to ensure that it will continue to provide decent, safe, and sanitary housing. Any project that is not already participating in the RHS's Section 514 Off-FLH

portfolio, as evidenced by currently having an outstanding Section 514 Off-FLH loan, is not eligible under this Notice.

(a) On-Farm Labor Housing projects are not eligible under this Notice.

(b) This Notice is for stay-in owner transactions only where the current owner, with an outstanding Section 514 Off-FLH loan, may apply for subsequent loan and/or subsequent grant funds to improve, repair, or make modifications to their Off-FLH property. Proposals that are for a transfer of ownership, to sell the property, to complete a recapitalization, or for an identity of interest (IOI) or third-party acquisition transaction will not be considered and are not eligible under this Notice.

(c) Applications that propose the use of Low-Income Housing Tax Credits (LIHTC), will not be considered and are not eligible under this Notice as stated above.

(d) The project must meet the occupancy requirements outlined in section C(2)(l) below.

(e) The project must have a positive cash flow for the previous full three (3) years of operations as outlined in section C(2)(m) below.

(f) Proposals to develop or construct additional units within the existing building envelope to comply with accessibility requirements will be considered and are eligible under this Notice. Funds may be used to address health, safety and accessibility needs and to repair or renovate existing project items identified in the Capital Needs Assessment (CNA). Additional items may be added to the scope of work, if practical and feasible, at the sole discretion of the RHS.

(g) A tenant protection account will be required for existing unsubsidized tenants residing at the property on the day the transaction closes, to the extent necessary to reduce the rental payment to the pre-transaction rent, or thirty (30) percent of adjusted income, if higher. Subsequent Section 514 Off-FLH loan funds may be used to establish a tenant protection account. The applicant will only be required to subsidize the difference in rents that exists at the time of the transaction closing for any unsubsidized tenant that is negatively impacted by the post-transaction rents. If a tenant protection account is required by the RHS:

(i) Applicants will provide their proposal for funding the tenant protection account based on their proposed new rents. The Agency will confirm the tenants adversely affected and determine the tenant protection amount that will be required. If the Agency requires funding for the tenant protection account that is different than the amount calculated by the applicant, the Agency will allow an adjustment to the applicant's proposal.

(ii) All tenant protection costs must be included in the Sources and Uses analysis for the full amount needed to fund the initial two-year minimum period following the transaction closing date.

(iii) The applicant must agree to protect currently eligible tenants affected by the rent increase as long as the tenant resides in the project. The obligation with respect to each unsubsidized tenant in place at the time of the transaction closing will end when the tenant receives rental assistance, receives a housing voucher, voluntarily leaves the property, is evicted for proper cause, or has income increased to pay the post-transaction basic rent without being rent over-burdened.

(h) Grant Limit—the amount of any Off-FLH grant must not exceed the limits set forth in 7 CFR 3560.562(c).

(i) Other Requirements—the following requirements apply to subsequent loans and subsequent grants made in response to this Notice:

(i) 7 CFR part 1901, subpart E, regarding equal opportunity requirements.

(ii) For grants only, 2 CFR parts 200 and 400, which establishes the uniform administrative and audit requirements for grants and cooperative agreements to State and local Governments and to non-profit organizations.

(iii) 7 CFR part 1901, subpart F, regarding historical and archaeological properties.

(iv) 7 CFR 1970.11, Timing of the environmental review process. Please note, the environmental information must be submitted by the applicant to the RHS. The RHS must review and determine that the environmental information is acceptable before the obligation of funds.

(v) 7 CFR part 3560, subpart L, regarding the loan and grant authorities of the Off-FLH program.

(vi) 7 CFR part 1924, subpart A, regarding planning and performing construction and other development work.

(vii) 7 CFR part 1924, subpart C, regarding the planning and performing of site development work.

(viii) For construction utilizing a section 516 grant, the provisions of the Davis-Bacon Act (40 U.S.C. 3142) and implementing regulations published at 29 CFR parts 1, 3, and 5.

(ix) Borrowers and grantees must take reasonable steps to ensure that tenants receive the language assistance necessary to afford them meaningful access to USDA programs and activities, free of charge. Failure to provide this assistance to tenants who can effectively participate in or benefit from federally assisted programs or activities may violate the prohibition under title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d *et seq.* and title VI regulations against national origin discrimination.

(x) In accordance with 7 CFR 3560.60, the housing repairs must be economical to construct, operate, and maintain and must not be of elaborate design or materials.

(xi) All other requirements contained in 7 CFR part 3560, applicable to the Sections 514/516 Off-FLH programs.

(2) Applicant Eligibility

All eligible applicants must meet the following requirements:

(a) To be eligible to receive a subsequent section 514 loan for Off-FLH, the applicant must meet the requirements of 7 CFR 3560.555(a) and (1) be a broad-based nonprofit organization, a nonprofit organization of farmworkers, a federally recognized Indian tribe, a community organization, or an agency or political subdivision of State or local government, and must meet the requirements of § 3560.55, excluding § 3560.55(a)(6), or (2) be a limited partnership with a non-profit general partner which meets the requirements of § 3560.55(d). A broad-based nonprofit organization is a nonprofit organization that has a membership that reflects a variety of interests in the area where the housing will be located.

(b) To be eligible to receive a subsequent section 516 grant for Off-FLH, the applicant must meet the requirements of 7 CFR 3560.555(b) and (1) be a broad-based nonprofit organization, a nonprofit organization of farmworkers, a federally recognized Indian tribe, a community organization, or an agency or political subdivision of State or local government, and must meet the requirements of § 3560.55, excluding § 3560.55(a)(6), and (2) be able to contribute at least one-tenth of the total farm labor housing development cost from its own or other resources. A broad-based nonprofit organization is a nonprofit organization that has a membership that reflects a variety of interests in the area where the housing will be located. The applicant's contribution must be available at the time of the grant closing. An Off-FLH loan financed by the RHS may be used to meet this requirement; however, an RHS grant cannot be used to meet this requirement. Limited partnerships with a non-profit general partner are eligible

for section 514 loans; however, they are not eligible for section 516 grants.

(c) The applicant must be unable to obtain similar credit elsewhere at rates that would allow for rents within the payment ability of eligible residents.

(d) Possess the legal and financial capacity to carry out the obligations required for the subsequent loan and/or grant.

(e) Broad-based non-profit organizations must have a membership that reflects a variety of interests in the area where the housing will be located.

(f) Be able to maintain, manage, and operate the Off-FLH for its intended purpose and in accordance with all RHS requirements as demonstrated by its compliance with RHS servicing requirements. Non-compliance with RHS servicing requirements by other projects owned and/or managed by natural person(s) managing/controlling (whether directly or indirectly through other entities) the borrowing entity will render the applicant ineligible to participate in this Notice nationwide until the non-compliance event(s) is/are remedied or are in compliance with an RHS approved workout plan.

(g) With the exception of applicants who are non-profit organizations, housing cooperatives or public bodies, be able to provide the borrower contribution from their own resources (this contribution must be in the form of cash).

(h) Not be suspended, debarred, or otherwise excluded from, or ineligible for, participation in Federal assistance programs under 2 CFR parts 180 and 417.

(i) Not be delinquent on Federal debt or a Federal judgment debtor, with the exception of those debtors described in 7 CFR 3560.55(b).

(j) Be in compliance with the requirements of the Improper Payments Elimination and Recovery Improvement Act (IPERIA) as applied by RHS.

(k) If an applicant, the applicant's general partner, the applicant's managing member, any key principal with decision-making, operational authority, and/or financial control over the applicant and/or any sub-applicant entities, any entity exercising management and/or financial control of an applicant borrower, or any affiliated entity having a 10 percent or more ownership interest of the applicant borrower, has a prior or existing RHS debt, the following additional requirements must be met:

(i) The applicant must be in compliance with any existing loan or grant agreements and with all legal and regulatory requirements or be compliant with an RHS approved workout plan. The RHS will require that applicants with monetary or non-monetary deficiencies be in compliance with a RHS approved workout plan for a minimum of six (6) consecutive months before becoming eligible for further assistance.

(ii) The applicant must be in compliance with title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and all other applicable civil rights laws. Under this Notice, the project will also be considered eligible to apply if there is a current and accepted Self-Evaluation Transition Plan for the project.

(l) Additional requirements for non-profit organizations. In addition to the eligibility requirements of the paragraphs above, non-profit organizations must meet the following criteria:

(i) The applicant must have received a tax-exempt ruling from the IRS designating the applicant as a 501(c)(3) or 501(c)(4) organization.

(ii) The applicant must have in its charter the provision of affordable housing.

(iii) No part of the applicant's earnings may benefit any of its members, founders, or contributors.

(iv) The applicant must be legally organized under State and local law.

(v) The applicant must be a broad-based nonprofit organization, as defined above.

(m) Additional requirements for limited partnerships. In addition to the applicant eligibility requirements of the paragraphs above, limited partnership loan applicants must meet the following criteria:

(i) The general partners must be able to meet the borrower contribution requirements if the partnership is not able to do so at the time of loan request.

(ii) The general partners must maintain a minimum 5 percent financial interest in the residuals or refinancing proceeds in accordance with the partnership organizational documents.

(iii) The partnership must agree that new general partners can be brought into the organization only with the prior written consent of the RHS.

(iv) The limited partnership must have a non-profit general partner.

(n) This Notice requires selected applicants to make the required equity contribution as outlined in § 3560.63(c) for any new section 514 loan. Applicants eligible to receive Return to Owner (RTO) may be eligible to receive additional RTO for this required contribution.

(o) Eligibility also includes the continued ability of the borrower/applicant to provide acceptable management and will include an evaluation of any current outstanding deficiencies. Any outstanding violations or extended open operational findings associated with the applicant/borrower or any affiliated entity having an IOI with the project ownership and which are recorded in RHS's automated Multifamily Information System (MFIS), will preclude further processing of any application, unless there is a current and approved RHS workout plan and the applicant is in compliance with the provisions of the workout plan. The RHS will require that applicants with deficiencies be in compliance with an RHS approved workout plan for a minimum of six (6) consecutive months.

(p) All program applicants, unless exempt under 2 CFR 25.110(b), (c), or (d), are required to:

(i) Be registered in SAM before submitting their applications;

(ii) Provide a valid UEI in their applications; and

(iii) Continue to maintain an active SAM registration with current information at all times during which they have an active Federal award or an application or plan under consideration by a Federal awarding agency.

The Federal awarding agency may not make a Federal award to an applicant until the applicant has complied with all applicable SAM requirements and, if an applicant has not fully complied with the requirements by the time the Federal awarding agency is ready to make a Federal award, the Federal awarding agency may determine that the applicant is not qualified to receive a Federal award and use that determination as a basis for making a Federal award to another applicant. The System for Award Management (SAM) is the Official U.S. Government system for collection of forms for acceptance of a Federal award through the registration or annual recertification process. Applicants may register for SAM at *https://www.sam.gov* or by calling 1–866–606–8220. The applicant must ensure that the information in the database is current, accurate, and complete. On April 4, 2022, the unique entity identifier used across the Federal Government changed from the DUNS Number to the Unique Entity ID (UEI) (generated by *SAM.gov*). As required by the Office of Management and Budget (OMB), all applications must provide a UEI number when applying for Federal assistance. Instructions for obtaining the UEI are available at *https://sam.gov/content/entity-registration.* Applicants must ensure they complete the Financial Assistance General Certifications and Representations in SAM. Similarly, all recipients of Federal

financial assistance are required to report information about first-tier subawards and executive compensation in accordance with 2 CFR part 170. So long as an entity applicant does not have an exception under 2 CFR 170.110(b), the applicant must have the necessary processes and systems in place to comply with the reporting requirements should the applicant receive funding. See 2 CFR 170.200(b).

Additional information concerning these requirements can be obtained on the *Grants.gov* website at *https://www.grants.gov.* The applicant must provide documentation that they are registered in SAM and their UEI number or the application will not be considered for funding. The following forms for acceptance of a Federal award are now collected through the registration or annual recertification in *SAM.gov* in the Financial Assistance General Certifications and Representations section:

- Form AD–1047, ''Certification Regarding Debarment, Suspension, and Other Responsibility Matters-Primary Covered Transactions.''
- Form AD–1048, ''Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion. Lower Tier Covered Transactions.''
- Form AD–1049, ''Certification Regarding Drug-Free Workplace Requirements (Grants).''
- Form AD–3031, ''Assurance Regarding Felony Conviction or Tax Delinquent Status for Corporate Applicants.''
- Form AD–3030, ''Representations Regarding Felony Conviction and Tax Delinquent Status for Corporate Applicants.''

C. Application and Submission Information

All applications for section 514 and 516 funds must meet the requirements of this Notice. Incomplete applications will be rejected and returned to the applicant. No application will be accepted after the deadline unless the date and time are extended by another Notice published in the **Federal Register**.

Applicants are encouraged to include a checklist of all the application requirements and to index and tab their application to facilitate the review process.

(1) Submission process. Applications must be submitted electronically. The process for submitting an electronic application to the RHS is as follows:

(a) At least three business days prior to the application deadline, the applicant must email the RHS a request to create a shared folder in CloudVault. The email must be sent to the following address: *Off-FLHapplication@usda.gov.* The email must contain the following information:

i. *Subject line:* ''Off-FLH Repair Application Submission.''

ii. *Body of email:* Borrower Name, Project Name, Borrower Contact Information, Project State.

iii. *Request language:* ''Please create a shared CloudVault folder so that we may submit our application documents.''

(b) Once the email request to create a shared CloudVault folder has been received, a shared folder will be created within 2 business days. When the shared CloudVault folder is created by the RHS, the system will automatically send an email to the applicant's submission email with a link to the shared folder. All required application documents in accordance with this Notice must be loaded into the shared CloudVault folder. The applicant's access to the shared CloudVault folder will be removed when the submission deadline is reached. Any document uploaded to the shared CloudVault folder after the application deadline will not be reviewed or considered.

(c) The applicant should upload a Table of Contents of all of the documents that have been uploaded to the shared CloudVault folder. Last-minute requests and submissions may not allow adequate time for the applicant to upload documents prior to the deadline. *Note: Applicants are reminded that all submissions must be received by the deadline and the application will be rejected if it is not received by the deadline date and time.*

(2) Application Requirements. The application must contain the following:

(a) An executed and dated Executive Summary on the applicant's letterhead that must include at least the following:

i. Brief description of the project and its history. Include the borrower's name, project name, project location, number of units, number of Rental Assistance (RA) or Operating Assistance (OA) units, and unit mix. Be sure to address whether the project operates year-round or on a seasonal basis. Also provide the year the property was built and placed into service, the original sources of funding, and the original amounts of funding received. Include a description of any significant improvements, repairs, or modifications that have been made since the property was placed in service, including substantial rehabilitations and significant repairs that were needed due to natural disasters, floods, fires, or other casualties. Provide any other information that you may want to disclose regarding the project and its history.

ii. Brief description of the proposed transaction. Provide a narrative of the loan and/or grant funds that the applicant is seeking from the RHS, as well as funds sought from any other third-party grant source, and a description of what the funds will be utilized for. Describe the scope of work and explain how the transaction will come together overall, including information on how the project will absorb any additional debt service, if applicable.

iii. Description of the current ownership structure with a detailed organizational chart.

iv. Narrative verifying the applicant's ability to meet the applicant eligibility requirements stated earlier in this Notice.

v. A statement of the applicant's experience in operating labor housing or other rental housing.

vi. Description of the applicant's legal and financial capability to carry out the obligation of the subsequent loan and/or grant.

vii. Current management. A brief description of how the property is currently managed. As stated earlier in this Notice, the housing must be managed in accordance with the management regulations, 7 CFR part 3560.

viii. Any financial commitments, financial concessions, or other economic benefits proposed to be provided by the RHS.

ix. Third-party grant, non-amortizing leveraged funds, or similar funding source, if applicable. For each third-party funding source, briefly discuss the provider, amount, terms, commitment status, timing issues, any restrictions that will be applicable to the project, and whether any accommodation from the RHS is requested, such as a subordination in lien position. The desired lien position of any third-party funding source must be clearly disclosed, as well as any request for the RHS to subordinate its lien position.

x. Any proposed compensation to parties having an identity of interest with either the consultant or technical assistance provider.

xi. Any proposed construction financing, for example, a construction or bridge loan or the use of multiple advances.

xii. Type and method of construction, such as owner builder, negotiated bid, or contractor method.

xiii. If an FLH grant is desired, a statement concerning the need for an FLH grant. The statement must include estimates of the rents required with a

grant and rents required without a grant. Documentation to demonstrate how the rent figures were computed must be provided. Documentation must be in the form of a Form RD 3560–7, ''Multiple Family Housing Project Budget/Utility Allowance,'' completed as if a grant were received, and another Form RD 3560–7 completed as if a grant were not received. The RHS will review each budget to determine that the income and expenses are reasonable and customary for the area.

xiv. Statement by the applicant that they will pay any cost overruns.

xv. Estimated development timeline to include estimated start and end date, as well as any other important milestones such as the proposed closing date.

xvi. Description of any required state or local approvals, if applicable.

xvii. Description of the required and intended applicant contribution, if applicable.

xviii. Any other pertinent information the applicant wishes to disclose as part of this proposal, if applicable.

xix. A separate one-page information sheet listing each of the application scoring criteria contained in this Notice, followed by a reference to the page numbers of all relevant material and documentation contained in the proposal that supports the outlined criteria.

(b) The following forms and certifications are required:

i. Form RD 3560–1, ''Application for Partial Release, Subordination, or Consent'', if applicable, can be obtained at: *https://formsadmin.sc.egov.usda.gov//efcommon/eFileServices/eFormsAdmin/RD3560-0001.pdf.*

ii. Standard Form 424, ''Application for Federal Assistance,'' can be obtained at: *https://www.grants.gov/.*

iii. Form RD 3560–30, ''Certification of no Identity of Interest (IOI),'' can be found at: *http://forms.sc.egov.usda.gov/efcommon/eFileServices/eForms/RD3560-30.PDF.*

iv. Form RD 3560–31, ''Identity of Interest Disclosure/Qualification Certificate,'' can be found at: *http://forms.sc.egov.usda.gov/efcommon/eFileServices/eForms/RD3560-31.PDF.*

An IOI is defined in 7 CFR 3560.11. The RHS must review Form RD 3560–30 and Form RD 3560–31, as applicable, to determine if they are completed in accordance with the Forms Manual Insert and to determine that all IOI's have been disclosed.

v. Form HUD 2530, ''Previous Participation Certification,'' if applicable, can be found at: *https://www.hud.gov/sites/dfiles/OCHCO/documents/2530.pdf.*

vi. Form RD 400–4, ''Assurance Agreement,'' can be found at: *http://forms.sc.egov.usda.gov/efcommon/eFileServices/eForms/RD400-4.PDF.*

vii. RD Instruction 1940–Q, Exhibit A–1, ''Certification for contracts, grants and loans,'' can be found at: *https://www.rd.usda.gov/files/1940q.pdf.*

viii. Form RD 1910–11, ''Applicant Certification, Federal Collection Policies for Consumer or Commercial Debts'' can be found at: *https://forms.sc.egov.usda.gov//efcommon/eFileServices/eForms/RD1910-11.PDF.*

ix. Form RD 400–1, ''Equal Opportunity Agreement,'' can be found at: *https://formsadmin.sc.egov.usda.gov/eFormsAdmin/browseFormsAction.do?pageAction=displayPDF&formIndex=2.*

x. Form RD 400–6, ''Compliance Statement,'' if available, can be found at: *https://formsadmin.sc.egov.usda.gov/eFormsAdmin/browseFormsAction.do?pageAction=displayPDF&formIndex=5.*

(c) Provide the following financial and organizational information:

i. Current (within 6 months of this Notice's application submission due date) financial statements for each entity within the ownership structure with the following paragraph certified by the applicant's designated and legally authorized signer:

''I/we certify the above is a true and accurate reflection of our financial condition as of the date stated herein. This statement is given for the purpose of inducing the United States of America to make a loan or to enable the United States of America to make a determination of continued eligibility of the applicant for a loan as requested in the loan application of which this statement is a part.''

ii. Submit a current (within 6 months from the date of issuance) comprehensive credit reports that contain details of both current open credit accounts and closed accounts for both the entity and the actual individual principals, partners, and members within the applicant entity, including any sub-entities who are responsible for controlling the ownership and operations of the entity. If any of the principals in the applicant entity are not natural persons (including but not limited to corporations, limited liability companies, trusts, partnerships, or limited partnerships), separate comprehensive commercial credit reports must be submitted on those organizations as well. Only credit reports provided by one of the three accredited major credit bureaus (Experian, Equifax, or TransUnion) will be accepted. The Agency will also accept combination comprehensive credit reports which provides a comprehensive view of the applicant's credit profile by combining data from all three major credit bureaus (Experian, Equifax, and TransUnion). If the credit report(s) is not submitted by the application deadline, the application will be considered incomplete and will not be considered for funding.

iii. Letter from the IRS indicating the applicant's tax identification number.

iv. Organizational applicants must provide to their attorney acceptable evidence of U.S. citizenship and/or qualified alien status. Acceptable evidence of U.S. citizenship may include a valid U.S. birth certificate, a valid U.S. Passport, a valid U.S. Certificate of Naturalization, or other acceptable evidence of U.S. citizenship proposed by the applicant and determined by the Agency. Acceptable evidence of qualified alien status may include valid documentation issued by the U.S. Citizenship and Immigration Services (USCIS), or other acceptable documentation of qualified alien status proposed by the applicant and determined by the Agency.

Attorney Certification. The applicant's attorney must review all applicable evidence to verify U.S. citizenship and/or qualified alien status, must certify that the Agency's U.S. citizenship and/or qualified alien status eligibility requirements are met by all applicants, and must submit the certification for Agency review.

v. Documentation verifying the applicant is registered in SAM and the applicant's UEI number (unless exempt under 2 CFR 25.110(b), (c), or (d)).

vi. If the applicant is a limited partnership, current and fully executed limited partnership agreement and certificates of limited partners.

vii. If the applicant is a nonprofit organization:

a. Tax-exempt ruling from the IRS designating the applicant as a 501(c)(3) or 501(c)(4) organization.

b. Purpose statement, including the provision of low-income housing.

c. Evidence of organization under state and local law and a copy of the applicant's charter, Articles of Incorporation, and By-laws.

d. List of members of applicant's Board of Directors including names, occupations, phone numbers, and addresses.

e. If the applicant is a member or subsidiary of another organization, the parent organization's name, address, and nature of business.

viii. Certificate of Good Standing.

ix. Attorney Certification. Letter from the applicant's attorney certifying the legal sufficiency of the organizational documents. The attorney must certify:

a. The applicant's legal capacity to successfully operate the proposed project for the life of the loan and/or grant.

b. That the organizational documents comply with RHS regulations.

c. For partnership applicants, that the term of the partnership extends at least through the latest maturity of all proposed RHS debt.

d. That the organizational documents require prior written RHS approval for any of the following: withdrawal of a general partner of a partnership or limited partnership applicant, withdrawal of any member of a limited liability company applicant, admission of a new general partner to a partnership or limited partnership applicant, admission of any new member to a limited liability company applicant, amending the applicant's organizational documents, and selling all or substantially all of the assets of the applicant.

e. That there have been no changes to either the ownership entity or the property that have not been approved by the RHS.

(d) Provide the following information about the Project:

i. Document the need for the project. The applicant must provide documentation that the average physical vacancy rate for the twelve (12) months preceding this Notice's application submission due date has been no more than ten (10) percent for projects consisting of sixteen (16) or more revenue units, and no more than fifteen (15) percent for projects with less than sixteen (16) revenue units, unless the project is seasonal Off-FLH, or unless the applicant has an RHS approved workout plan and is in compliance with the provisions of the workout plan, and provides documentation that clearly demonstrates to the RHS that sufficient market demand exists. If the project is seasonal Off-FLH, the applicant must provide detailed documentation for the twenty-four (24) months preceding this Notice's application submission due date that verifies the project's operations, including information regarding the open and close date, lease-up, vacancy, rent rolls, operating budgets, and any other information the applicant can provide to document the need for the seasonal Off-FLH project.

If the project does not meet the vacancy requirements above, a description of the cause of the vacancy rate and the plan to increase the occupancy rate must be submitted. The requested loan or grant funds must be needed to stabilize occupancy. In addition, the project's waiting list and documentation regarding the market area must be submitted to support the need for the project. The market area must be clearly identified and may include only the area from which tenants can reasonably be drawn to the project. Documentation must be provided to justify the need within the primary market area for the housing of domestic farm laborers. The documentation must also consider disabled and retired farm workers and adjusted median incomes of very-low, low, and moderate.

ii. Documentation that the project has a positive cash flow. The applicant must provide documentation that the project had a positive cash flow for the previous full three (3) years of operations preceding this Notice's application submission due date unless the applicant has an RHS approved workout plan and is in compliance with the provisions of the workout plan. The RHS will require that applicants with monetary or non-monetary deficiencies be in compliance with the RHS approved workout plan for a minimum of six (6) consecutive months before becoming eligible for a loan and/or grant under this Notice. Additionally, an exception will apply to projects that have a negative cash flow in operations if surplus cash exists in either the general operating account as defined in 7 CFR 3560.306(d)(1) or the reserve account. Surplus cash exists when the balance is greater than the required deposits minus authorized withdrawals. The applicant must provide the project's annual financial report(s) to document the project complies with this exception for any year the project has a negative cash flow. Seasonal Off-FLH properties that receive OA are exempt from this requirement.

(e) Provide the following construction related documents:

i. Plans and specifications along with the proposed manner of construction. The housing must meet RHS's design and construction standards contained in 7 CFR part 1924, subparts A and C, the design requirements in 7 CFR 3560.559, and all applicable Federal, State, and local accessibility standards and applicable building codes. The plans and specifications along with the proposed manner of construction must be submitted prior to the approval of the application. The RHS will notify eligible applicants of the deadline to submit these materials. Note: For projects that do not currently have interior/exterior washing facilities, applicants should consider incorporating interior/exterior washing facilities for tenants, as necessary to protect the asset and the tenants from excess dirt and chemical exposure. Such facilities might include a boot washing station or hose bibs, among others.

ii. Construction planning, bidding, and contract documents, including the construction contract and architectural agreement. The construction planning, bidding, and contract documents, including the construction contract and architectural agreement must be submitted prior to the approval of the application. The RHS will notify eligible applicants of the deadline to submit these materials.

iii. A checklist, certification, and signed affidavit by the project architect or engineer, as applicable, for any energy programs in which the applicant intends to participate.

iv. An estimate of development costs utilizing Form RD 1924–13, ''Estimate and Certificate of Actual Cost,'' which can be found at: *https://forms.sc.egov.usda.gov/efcommon/eFileServices/eForms/RD1924-13.PDF*.

(f) Provide the following project financing information:

i. A Sources and Uses Statement which shows all sources of funding included in the proposed transaction. The terms and schedules of all sources included in the project should be included in the Sources and Uses Statement. (Note: A section 516 grant may not exceed 90 percent of the TDC of the transaction, as defined in 7 CFR 3560.11).

ii. All applications that propose the use of any grant, non-amortizing leveraged funds, or similar funding source should submit commitment letters with their application, if available. If commitment letters are not available, the applicant should include a statement that firm commitment letters will be provided within 180 calendar days of issuance of the award letter. If the applicant is unable to secure third-party firm commitment letters within 180 calendar days from the issuance of the award letter under this NOSA, the application will be deemed incomplete, the award letter will be considered null and void, and the applicant will be notified in writing that the application will be rejected.

iii. Description of how the applicant will meet any applicable equity contribution requirement.

(g) Provide the following environmental information:

i. Environmental information in accordance with the requirements in 7 CFR part 1970. The applicant is responsible for preparing and submitting the environmental review

document in accordance with the format and standards provided by RHS in 7 CFR part 1970. Applicants may employ a design or environmental professional or technical service provider to assist them in the preparation of their environmental review documents at their own expense.

ii. Evidence of the submission of the project description to the applicable State Housing Preservation Office (SHPO), and/or Tribal Historic Preservation Officer (THPO) with the request for comments. A letter from the SHPO and/or THPO where the Off-FLH project is located stating they have reviewed the site and made a determination, signed by their designee, will serve as evidence of compliance.

iii. Intergovernmental review. Evidence of compliance with Executive Order 12372. The applicant must initiate the intergovernmental review by submitting the required information to the applicable State Clearinghouse. The applicant must provide documentation that the intergovernmental review process was completed. The applicant must also submit any comments that were received as part of this review to the RHS. If no comments are received, the applicant must provide documentation that the review was properly initiated and that the required comment period has expired. Applications from federally recognized Indian tribes are not subject to this requirement.

(h) Provide the following budget and project management information:

i. A proposed post-transaction operating budget utilizing Form RD 3560–7, ''Multiple Family Housing Project Budget/Utility Allowance''. Form can be found at: *https://forms.sc.egov.usda.gov/efcommon/eFileServices/eForms/RD3560-7.PDF.* The budget must include the debt service of the new RHS loan, if applicable. This will be a post transaction budget that must include a narrative which provides justification for any changes between the current budget and proposed budget.

The RHS will review the budget to determine that the income and expenses are reasonable and customary for the area. The RHS will also verify that the budget reflects the new RHS loan debt service, if applicable, the existing RHS loan debt service, if applicable, the number of units, unit mix, and rents. Overall, the RHS will review the budget for feasibility, accuracy, and reasonableness.

ii. Form RD 3560–13, ''Multifamily Project Borrower's/Management Agent's Management Certification,'' if applicable, can be found at: *https://forms.sc.egov.usda.gov//efcommon/eFileServices/eForms/RD3560-13.PDF.* This document is required only if the owner is changing the management agent or the management fee as part of this proposal.

iii. Management plan with all attachments, including the proposed record keeping system, the proposed lease with an attorney's certification, and the proposed occupancy rules. This document is required only if the owner is changing the management agent or revising the management plan and/or any attachments as part of this proposal.

iv. Management Agreement. This document is required only if the owner is changing the management agent or revising the management agreement and any attachments as part of this proposal.

v. Tenant relocation plan, if applicable. Subsequent Section 514 Off-FLH loans or subsequent Section 516 Off-FLH grants that are made for major repair may require the temporary relocation of tenants while the project is undergoing work. The applicant must provide a plan and financial assistance for relocation of displaced persons from a site on which a project will be located. The plan must meet the requirements of HB–1–3560, Chapter 3, Paragraph 3.19.

(i) Provide the following third-party reports:

i. Acceptable appraisal. Please refer to the Agency's appraisal assignment guidance under the ''To Apply'' tab on the Off-Farm Labor Housing Direct Loans & Grants website (*https://www.rd.usda.gov/programs-services/multifamily-housing-programs/farm-labor-housing-direct-loans-grants#to-apply*).

Project funds may be used to obtain the appraisal if there are adequate funds available and the request to use project funds is approved by the Field Operations Division servicing official. No appraisal is required for subsequent Section 516 Off-FLH grant only requests.

ii. An acceptable As-Is CNA in accordance with the requirements set forth in the ''Addendum: Capital Needs Assessment Process'' at the end of this notice.

Project funds may be used to obtain the As-Is CNA if there are adequate funds available and the request to use project funds is approved by the Field Operations Division servicing official. The repair plan should be developed in accordance with the CNA and the applicant should submit documentation of the detailed plan and timeline for completion of the repair work.

If any of the required items listed above are not submitted within the application in accordance with this Notice, or are incomplete, the application will be considered incomplete and will not be considered for funding. If the application is incomplete or deemed ineligible, the applicant will be notified of appeal rights under 7 CFR part 11. Applications that are deemed eligible but are not selected for further processing will be withdrawn from processing and will be encouraged to apply to future Notices. This action is not appealable.

The RHS will not consider information from the applicant after the application deadline. The RHS may contact the applicant to clarify items in its application. The RHS will uniformly notify applicants of each curable deficiency. A curable deficiency is an error or oversight that if corrected it would not alter, in a positive or negative fashion, the review and rating of the application. An example of a curable (correctable) deficiency would be inconsistencies in the amount of the funding request. Non-curable deficiencies are threshold components that effect the review and rating of the application, including but not limited to, evidence of an eligible entity and evidence of the need for the project.

D. Application Review and Scoring Information

The RHS will accept, review, and score applications in accordance with this Notice. The maximum score that can be obtained is 100 points.

Section 514 Off-FLH subsequent loan funds and Section 516 Off-FLH subsequent grant funds will be distributed based on a national competition, as follows:

(1) Health, safety, and accessibility repairs (up to 35 points). High priority is placed on addressing health, safety, and accessibility repairs identified in the CNA. To claim points, all health, safety, and accessibility items identified in the CNA must be addressed in the scope of work. Points will be awarded as follows:

(a) 100% of project hard costs are for health, safety, and accessibility repairs identified in the CNA (35 points).

(b) 75% or more of project hard costs are for health, safety, and accessibility repairs identified in the CNA (25 points).

(c) 50% or more of project hard costs are for health, safety, and accessibility repairs identified in the CNA (15 points).

(d) 25% or more of project hard costs are for health, safety, and accessibility repairs identified in the CNA (5 points).

(2) Uninhabitable unit repairs (up to 10 points). Priority is placed on repairing uninhabitable units in projects

where there is documented demand for housing as evidenced by a waiting list. The applicant must provide a waiting list documenting interest from prospective tenants in order to receive points. Points are awarded as follows:

(a) Three or more units that are currently documented as uninhabitable, by RHS or a code-enforcement agency, will be repaired to a habitable standard (10 points).

(b) One or two units that are currently documented as uninhabitable, by RHS or a code-enforcement agency, will be repaired to a habitable standard (5 points).

(3) Owner and management capacity (up to 10 points). RHS seeks to provide financing to applicants that have the experience and organizational resources to successfully own, operate and manage FLH on a long-term basis. In the case of co-sponsored applications, the rating will be based upon the combination of the experience of all co-sponsors in the area under review. Demonstrated experience and organizational resources by the owner, including the General Partner for partnership applicants, and the management company, will be considered in awarding points.

In order to obtain points, applicants must submit a firm resume for the applicant and all Sponsors/Co-Sponsors, including the management agent. Each resume must include FLH and MFH ownership and management experience, as applicable.

(4) Development/rehabilitation experience (up to 10 points). Applicants should demonstrate the team's (owner, including the General Partner of a partnership applicant, Developer and Management Company) recent experience in successfully completing the development, repair, and rehabilitation of FLH and/or MFH projects in a timely manner. RHS will consider the applicant's experience with utilizing Federal financing programs. In order to obtain points, applicants must submit a firm resume for all of the sponsors/co-sponsors, including the management agent. The description or firm resumes must include any rental housing projects facilities that the applicant team sponsored, owns, or operates.

To score the highest number of points for this factor, applicants must describe significant previous experience implementing development activities with the type of financing proposed.

(5) Project occupancy (10 points). Ten (10) points will be awarded to projects with a 12-month physical vacancy rate (for the twelve (12) months preceding this Notice's application submission due date) of 10% or less (for projects with 16+ units) or 15% or less (for projects with fewer than 16 units). For seasonal projects, the vacancy rates will be calculated based on the twenty-four (24) months preceding this Notice's application submission due date that the property was open and operating.

(6) Occupancy by qualified farmworkers (5 points). Five (5) points will be awarded to projects in which all tenants are eligible farm workers and a partial or full Diminished Needs Waiver (DNW) has not been approved or in place at any time during the twelve (12) months preceding this Notice's application submission due date.

(7) Creating More and Better Markets: Assisting Rural communities to recover economically through more and better market opportunities and through improved infrastructure. (5 points). Priority points will be awarded if the project is located in or serving a rural community whose economic well-being ranks in the most distressed tier of the Distressed Communities Index. The Distressed Communities Index provides a score between 1–100 for every community at the zip code level. The most distressed tier of the index are those communities with a score over 80. Please use the Distressed Communities Index Look-Up Map to determine if your project qualifies for priority points. Provide a copy of the map showing the project is eligible to claim points. Note: US Territories are considered distressed and qualify for priority points. For additional information on data sources used for this priority determination, please download the Data Sources for Rural Development Priorities document. Additional information for priority points can be found on the following website: *https://www.rd.usda.gov/priority-points.*

(8) Advancing Racial Justice, Place-Based Equity, and Opportunity: Ensuring all rural residents have equitable access to RD programs and benefits from RD funded projects. (5 points). Priority points will be awarded if the project is located in or serving a community with score 0.75 or above on the CDC Social Vulnerability Index. Please use Social Vulnerability Index Map to look up map or list to determine if your project qualifies for priority points. Provide a copy of the map showing the project is eligible to claim points. Applications from Federally Recognized Tribes, including Tribal instrumentalities and entities that are wholly owned by Tribes will receive priority points. Federally Recognized Tribes are classified as any Indian or Alaska Native tribe, band, nation, pueblo, village, or community as defined by the Federally Recognized Indian Tribe List Act (List Act) of 1994 (Pub. L. 103–454). Please refer to the Bureau of Indian Affairs for a listing of Federally Recognized Tribes. Additionally, projects where at least 50% of the project beneficiaries are members of Federally Recognized Tribes, will receive priority points if applications from non-Tribal applicants include a Tribal Resolution of Consent from the Tribe or Tribes that the applicant is proposing to serve. Note: US Territories are considered socially vulnerable and qualify for priority points. For additional information on data sources used for this priority determination, please download the Data Sources for Rural Development Priorities document. Additional information for priority points can be found on the following website: *https://www.rd.usda.gov/priority-points.*

(9) Addressing Climate Change and Environmental Justice: Reducing climate pollution and increasing resilience to the impacts of climate change through economic support to rural communities. (up to 10 points). Applicants can receive priority points through one of the options listed below. A maximum of 10 points can be received even if the applicant meets the requirements for additional points:

(a) Option 1 (5 points): Priority points will be awarded if the project is located in or serves a Disadvantaged Community as defined by the Climate and Economic Justice Screening Tool (CEJST), from the White House Council on Environmental Quality (CEQ). CEJST is a tool to help Federal agencies identify disadvantaged communities that will benefit from programs included in the Justice40 initiative. Census tracts are considered disadvantaged if they meet the thresholds for at least one of the CEJST's eight (8) categories of burden: Climate, Energy, Health, Housing, Legacy Pollution, Transportation, Water and Wastewater, or Workforce Development.

(b) Option 2 (5 points): Priority points will be awarded if the project is located in or serves an Energy Community as defined by the Inflation Reduction Act (IRA). The IRA defines energy communities as:

- A ''brownfield site'' (as defined in certain subparagraphs of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA)).
- A ''metropolitan statistical area'' or ''non-metropolitan statistical area'' that has (or had at any time after 2009.)
- 0.17% or greater direct employment or 25% or greater local tax revenues related to the extraction, processing,

transport, or storage of coal, oil, or natural gas; and has an unemployment rate at or above the national average unemployment rate for the previous year.

• A census tract (or directly adjoining census tract) in which a coal mine has closed after 1999; or in which a coal-fired electric generating unit has been retired after 2009.

To determine if your project qualifies for priority points under Option 1 or Option 2, please use the Disadvantaged Community & Energy Community Look-Up Map on the following website: *https://www.rd.usda.gov/priority-points.* Provide a copy of the map showing the project is eligible to claim points.

(c) Option 3 (5 points): Priority points will be awarded to applicants demonstrating through written narrative how the proposed repair project meets pollution mitigation or clean energy goals through the following programs. The applicant must submit a checklist, certification, and signed affidavit by the project architect or engineer, as applicable, for any energy programs in which the applicant intends to participate. All projects awarded scoring points for energy initiatives must enroll the project in the Environmental Protection Agency (EPA) Portfolio Manager program to track post construction energy consumption data. More information about this program may be found at: *https://www.energystar.gov/buildings/benchmark.* Participation in any of the following programs will qualify the applicant for priority points under Option 3:

• Participation in the EPA's Energy Star Multifamily Certification or Energy Star Next Gen Process. *https://www.energystar.gov/partner_resources/residential_new/homes_prog_reqs/multifamily_national_page.*

or

• Participation in the Green Communities program by the Enterprise Community Partners (2020 Criteria, EGC + Zero Ready/Phius). *https://www.enterprisecommunity.org/solutions-and-innovation/green-communities.*

or

• Participation in the Department of Energy (DOE) Zero Energy Ready Homes program. *https://www.energy.gov/eere/buildings/zero-energy-ready-homes.*

or

• Earth Advantage *https://www.earthadvantage.org/.*

or

• Earthcraft Gold or Platinum *https://earthcraft.org/programs/earthcraft-house/.*

or

• Passive House Institute US, Inc. (PHIUS Core, *Phius Zero) *https://multifamily.phius.org/service-category/phius-within-reach.*

or

• Greenpoint Gold or Platinum. *https://www.greenpointrated.com/greenpoint-rated/.*

or

• The National Green Building Standard (NGBS)—Multifamily and Mixed Use (four levels of base certification, plus *NGBS Green + NET ZERO ENERGY CERTIFICATION) *https://www.homeinnovation.com/services/certification/green_homes/multifamily_certification.*

or

• LEED V4 Homes and Multifamily Midrise, or LEED BD+C: Homes and Multifamily Lowrise LEED BD+C: Multifamily Midrise (four levels of certification, plus *LEED Zero) *https://www.usgbc.org/resources/leed-v4-homes-and-multifamily-midrise-current-version*

or

• International Living Future Institute (ILFI) Living Building Challenge (LBC 4.0—Core Building Certification, *Zero Energy, *Zero Carbon) *https://living-future.org/lbc/.*

E. Applicant Assistance

The RHS plans to host a workshop to discuss this Notice, the application process, and the borrower's responsibilities, among other topics. Further information regarding the date and time of this workshop, as well as information on how to participate in the workshop will be issued at a later date in a public notice via GovDelivery. Click here to sign up for notifications from Rural Development.

Prior to the submission of an application, the applicant is encouraged to schedule a concept meeting with RHS to discuss the application process, the specifics of the proposed project, and the borrower's responsibilities under the Off-FLH Repair program, and other topics they may wish to discuss relating to the Notice.

Concept meetings will be scheduled between the dates of April 1, 2024 and April 29, 2024. No concept meetings will be scheduled outside of the specified dates.

Requests for concept meetings can be sent to the following email address: *MFHprocessing1@usda.gov* and must be received by April 15, 2024. The email must contain the following information:

(1) *Subject line:* ''Off-FLH Repair Concept Call Request.''

(2) *Body of email:* Borrower Name, Project Name, Borrower Contact Information, Project State.

(3) *Request language:* ''We request to schedule a concept call to discuss our proposed application for the Off-FLH Repair NOSA.''

F. Federal Award Administration Information

(1) Review and Selection Process

(a) All applications must be received by the due date specified in this Notice. Applications submitted after the deadline will not be considered.

(b) Each application will be reviewed for overall completeness, as well as compliance with eligibility and program requirements set forth in this Notice. If an application does not meet these requirements, it will be removed from consideration and will not be scored.

(c) The RHS will rank all eligible applications nationwide by score, highest to lowest. Taking into account available funding, the 10 percent persistent poverty counties set-aside, and the 30 percent funding limitation per State, the RHS will determine which applications will be selected for further processing starting with the highest scoring application. When proposals have equal scores and not all applications can be funded, preference will be given first to Indian tribes as defined in § 3560.11, then to local non-profit organizations or public bodies whose principal purposes include low-income housing and that meet the conditions of § 3560.55(c) and the following conditions:

(i) Is exempt from Federal income taxes due to its status as a governmental entity or under section 501(c)(3) or 501(c)(4) of the Internal Revenue Code;

(ii) Is not wholly or partially owned or controlled by a for-profit or limited-profit type entity;

(iii) Whose members, or the entity, do not share an identity of interest with a for-profit or limited-profit type entity; and

(iv) Is not co-venturing with another for-profit entity.

If after all the above evaluations are completed and there are two or more applications that have the same score, but all cannot be funded, a lottery will be used to break the tie. The lottery will consist of the names of each application with equal scores printed onto pieces of paper equal in size, which will then be placed into a receptacle that fully obstructs the view of the names. The Director of the RHS Production and Preservation Division, in the presence of two witnesses, will draw a piece of paper from the receptacle. The name on the piece of paper drawn will be the applicant to be funded.

(d) If the remaining funding is insufficient for the next ranked

proposal, that applicant will be given a chance to modify their application funding request amount to bring it within the remaining available funding. This will be repeated for each next ranked eligible proposal until an award can be made or the list is exhausted.

(e) If an application is selected and the applicant declines, the next highest ranked application will be selected.

(f) If an application is not selected for funding, the applicant will be notified in writing via postal or electronic mail and informed of any appeal rights. Applicants will be notified if there are insufficient funds available for the proposal and such notification is not appealable. For applications found ineligible or incomplete, the RHS will send notices of ineligibility that provide notice of any applicable appeal rights under 7 CFR part 11.

(2) Administrative and National Policy

(a) Projects receiving subsequent Off-FLH loans and/or grants are subject to additional restrictive-use provisions contained in 7 CFR 3560.72(a)(2).

(b) For Section 516 Off-FLH grant awardees, a FLH grant agreement, prepared by the RHS, must be dated, and executed by the applicant on the date of closing. The grant agreement will remain in effect for so long as there is a need for the housing and will not expire until an official determination has been made by the RHS that there is no longer a need for the housing.

(c) The applicant's Board of Directors must adopt a resolution in a form acceptable to the RHS stating that the Board has read and fully understands the grant agreement and understands that the grant agreement will remain in effect until RHS determines that there is no longer a need for the housing.

G. Paperwork Reduction Act

The information collection requirements contained in this Notice have received approval from the Office of Management and Budget (OMB) under Control Number 0575–0189.

H. Build America, Buy America Act

Funding to Non-Federal Entities. Awardees that are Non-Federal Entities, defined pursuant to 2 CFR 200.1 as any State, local government, Indian tribe, Institution of Higher Education, or nonprofit organization, shall be governed by the requirements of section 70914 of the Build America, Buy America Act (BABAA) within the Infrastructure Investment and Jobs Act (Pub. L. 117–58), and its implementing regulations at 2 CFR part 184 . Any requests for waiver of these requirements must be submitted pursuant to USDA's guidance available online at *https://www.usda.gov/ocfo/federal-financial-assistance-policy/USDABuyAmericaWaiver.*

The Infrastructure Investment and Jobs Act (IIJA) (Pub. L. 117–58), requires the following Buy America preference for the Section 514 Off-Farm Labor Housing Subsequent Loans (Assistance Listing 10.405) and Section 516 Off-Farm Labor Housing Subsequent Grants to Improve, Repair, or Make Modifications to existing Off-Farm Labor Housing Properties (Assistance Listing 10.405).

(a) All iron and steel used in the project are produced in the United States. This means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

(b) All manufactured products used in the project are produced in the United States. This means the manufactured product was manufactured in the United States, and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation.

(c) All construction materials are manufactured in the United States. This means that all manufacturing processes for the construction material occurred in the United States.

In accordance with BABAA, however, USDA has determined that de minimis, small grants, and minor components shall be waived from the requirements of BABAA, pursuant to a public interest waiver that was granted to the Department on September 13, 2022. See *https://www.usda.gov/sites/default/files/documents/usdA-Cepartmentwide-de-minimis-small-grants-minor-components-waiver-final-approved-09132022.pdf.* Under such waiver, small grants below the Simplified Acquisition Threshold, which is currently set at $250,000 shall not be subject to BABAA. Additionally, de minimis and minor components, as described in the Department waiver, are also not subject to BABAA. Applicants and projects that are subject to BABAA may request other specific waivers, pursuant to the requirements posted at the USDA Office of the Chief Financial Officer Office website: *https://www.usda.gov/ocfo/federal-financial-assistance-policy/USDABuyAmericaWaiver.*

I. Equal Opportunity and Non-Discrimination Requirements

In accordance with Federal civil rights laws and USDA civil rights regulations and policies, the USDA, its Mission Areas, agencies, staff offices, employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Program information may be made available in languages other than English. Persons with disabilities who require alternative means of communication to obtain program information (*e.g.,* Braille, large print, audiotape, American Sign Language) should contact the responsible Mission Area, agency, staff office; or the 711 Federal Relay Service.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD–3027, found online at: *https://www.usda.gov/sites/default/files/documents/ad-3027.pdf,* and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of a complaint form, call, (866) 632–9992. Submit your completed form or letter to USDA by:

(1) *Mail:* United States Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW, Washington, DC 20250–9410;

(2) *Fax:* (202) 690–7442; or

(3) *Email at: program.intake@usda.gov.*

USDA is an equal opportunity provider, employer, and lender.

Addendum: Capital Needs Assessment Process

A Capital Needs Assessment (CNA) provides a repair schedule for the property in its present condition, indicating repairs and replacements necessary for a property to function properly and efficiently over a span of 20 years.

The purpose of this Addendum is to provide clarification and guidance on the Rural Development (RD) CNA process. The document includes general

instructions used in completing CNA reports, specific instructions on how to use the expected useful life tables, and a set of applicable forms including the Terms of Reference form; Systems and Conditions forms; and Evaluator's Summary forms.

1. Definitions

The following definitions are provided to clarify terms used in conjunction with the CNA process:

CNA Recipient: This will be who enters into the contract with the CNA Provider. The Recipient can be either the property owner or applicant/transferee.

''*As-Is*'' *CNA:* This type of CNA is prepared for an existing MFH property and reports the physical condition including all Section 504 Accessibility and Health and Safety items of the property based on that moment in time. This CNA can be useful for many transactions, including but not limited to, the MPR Demonstration program, an ownership transfer, determining whether to offer pre-payment aversion incentive and evaluating or resizing the reserve account. The ''as-is'' report will include all major repairs and likely some minor repairs that are typically associated with the major work: each major component, system, equipment item, etc. inside and outside; building(s); property; access and amenities in their present condition. A schedule of those items showing the anticipated repair or replacement timeframe and the associated hard costs for the ensuing 20-year term of the CNA serves as the basis or starting point in evaluating the underwriting that will be necessary to determine the feasibility and future viability of the property to continue serving the needs of eligible tenants.

''*Post Rehabilitation*'' *CNA:* This type of CNA builds on the findings of the accepted ''as-is'' CNA and is typically prepared for a project that will be funded for major rehabilitation. The Post Rehabilitation CNA is adjusted to reflect the work intended to be performed during the rehabilitation. The assessment must be developed from the rehabilitation project plans and any construction contract documents to reflect the full extent of the planned rehabilitation.

Life Cycle Cost Analysis (LCCA): A LCCA is an expanded version of a CNA and is defined at 7 CFR 3560.11. The LCCA will determine the initial purchase cost, the operation and maintenance cost, the ''estimated useful life'', and the replacement cost of an item selected for the project. The LCCA provides the borrower with the information on repair or replacement costs and timeframes over a 20-year period. It also provides information that will assist with a more informed component selection and can provide the borrower with a more complete financial plan based on the predictive maintenance needs associated with those components. If the newly constructed project has already been completed without any previous LCCA requirements, either an ''as-is'' CNA or LCCA can be provided to establish program mandated reserve deposits. An Architect or Engineer is the best qualified person(s) to prepare this report.

Consolidation: In some circumstances, RD may permit two or more properties to be consolidated as defined in 7 CFR 3560.410 when it is in the best interests of the Government. The CNA Recipient must consult with the RD loan official before engaging the CNA Provider in any case where the CNA intends to encompass more than a single (one) existing RD property to determine if a consolidated CNA may be acceptable for RD underwriting.

2. Contract Addendum

RD uses a Contract Addendum to supplement the basic CNA Agreement or ''Contract'', between the CNA Recipient and CNA Provider, with additional details and conditions. It can be found in *Attachment A, Addendum to Capital Needs Assessment Contract* and must accompany all contracts executed between the CNA Recipient and CNA Provider for CNAs used in RD transactions. If any conflicts arise between the ''Contract'' and ''Contract Addendum'', the ''Contract Addendum'' will supersede.

The Contract Addendum identifies the responsibilities and requirements for both the CNA Recipient and the CNA Provider. To assure proper completion of the contract documents the following key provisions must be completed:

a. The Contract Addendum will include the contract base amount for the CNA Provider's cost for services on page A–2, and provisions for additional services to establish the total price for the CNA.

b. Item I e, will require an itemized listing for any additional anticipated services and their unit costs including future updates and revisions that may be required before the CNA is accepted by RD. *Note: Any cost for updating a CNA must be included, in the* ''*additional services*'' *subpart, of the original CNA Contract.*

c. The *selection criteria boxes* in II a, will identify the type of CNA being provided.

d. In III a, the required language for the blank on ''report format'' is: ''*USDA RD CNA Template, current RD version, in Microsoft Excel format*''. This format will import directly into the RD underwriting template for loan underwriting purposes.

3. Requirements and Statement of Work (SOW) for a CNA

Minimum requirements for a CNA acceptable to RD can be found in *Attachment B, Capital Needs Assessment Statement of Work.* This is supplemented by *Attachment C, Fannie Mae Physical Needs Assessment Guidance to the Property Evaluator.* To resolve any inconsistency in the two documents, Attachment B, the CNA SOW, will in all cases prevail over *Attachment C,* Fannie Mae Physical Needs Assessment Guidance to the Property Evaluator. (For example, on page C–2 of Attachment C, Fannie Mae defines the ''term'' as ''term of the mortgage and two years beyond''. For USDA, the ''term'' will be 20 years, as defined in the CNA SOW.)

Attachment B includes the required qualifications for the CNA Provider, the required SOW for a CNA assignment, and general distribution and review instructions to the CNA Provider. The CNA Providers must be able to report the current physical condition of the property and *not* base their findings on the financial condition of either the property or the CNA Recipient.

Attachment C is a three-part document RD has permission from Fannie Mae to use as reference to the CNA process throughout the RD MFH program efforts. The three key components of this Attachment are: (1) guidance to the property evaluator; (2) expected useful life tables; and (3) a set of forms.

An acceptable CNA must appropriately address within the report and narrative all Accessibility Laws and Requirements that apply to Section 515 and Sections 514/516 MFH properties. The CNA Provider must assess how the property meets the requirements of accessibility to persons with disabilities in accordance the Uniform Federal Accessibility Standards (UFAS) and Section 504 Accessibility Requirements. It is the responsibility of the Provider to inspect and verify whether all accessibility features are compliant.

4. The CNA Review Process

A CNA used by RD will be reviewed by the designated RD CNA Reviewer with experience in construction, rehabilitation, and repair of MFH properties, especially as it relates to repair and replacement.

A CNA report must be obtained by the CNA Recipient from an *independent third-party CNA Provider that has no identity of interest* with the property owner, management agent, applicant/transferee or any other principle or affiliate defined in 7 CFR 3560.11. The CNA Recipient will contract with the CNA Provider and is therefore the client of the provider. However, the CNA Recipient must consult with RD, before contracting with a CNA Provider to review *Guidance Regarding Contracting for a CNA.* The RD CNA Reviewer will evaluate a proposed agreement or engagement letter between the CNA Recipient and the CNA Provider using *Attachment D, Capital Needs Assessment Guidance to the Reviewer,* prior to reviewing any CNA report. Unacceptable CNA proposals, contracts or reports will be returned to the CNA Recipient for appropriate corrections before they will be used for any underwriting determinations.

The CNA Reviewer will also review the cost of the CNA contract. The proposed fee for the CNA must be approved as an eligible housing project expense under 7 CFR 3560.103(c) for the agreement to be acceptable and paid using project funds. In most cases, the CNA service contract amount has not exceeded $3,500 based on the Agency's most recent cost analysis.

Borrowers and applicants are encouraged to obtain multiple bids in all cases. However, there is no Agency requirement to select the ''low bidder'' under this NOSA and the CNA Recipient may select a CNA Provider that will provide the best value, based on qualifications as well as price, after reviewing references and past work.

If the CNA is funded by the property's reserve account, a minimum of two bids is required if the CNA service contract amount is estimated to exceed $5,000 as specified in HB–2–3560, Chapter 4, Paragraph 4.13. If the CNA contract under this NOSA is funded by another source, or will be under $5,000, a single bid is acceptable.

If the proposed agreement is acceptable, the reviewer will advise the appropriate RD servicing official, who will in turn inform the CNA Recipient. If the proposed agreement is unacceptable, the reviewer will notify the servicing official, who will notify the CNA Recipient and the CNA Provider in writing and identify actions necessary to make the proposed CNA agreement acceptable to RD. Upon receipt of a satisfactory agreement, the RD CNA Reviewer should advise the appropriate RD servicing official or underwriting official to accept the proposal.

The CNA Reviewer will review the preliminary CNA report submitted to RD by the CNA Provider using Attachment D and write the preliminary CNA review report. During the CNA review process, the CNA Reviewer and underwriter will consult with the servicing field office most familiar with the property for their input and knowledge of the property. Any differences of opinion that exist regarding the findings must be mutually addressed by RD staff. If corrections are needed, the loan official will notify the CNA Recipient, in writing, of any revisions necessary to make the CNA report acceptable to RD. The CNA Reviewer will review the final CNA report and deliver it to the loan official. The final report must be signed by both the CNA Reviewer and the loan official (underwriter). Upon signature by both, this report becomes the ''accepted'' CNA indicating the actual condition of the property at the time of the CNA inspection—a ''snapshot'' in time—and will be marked ''Current Property Condition'' for indefinite retention in the borrower case file.

A CNA Provider should be fully aware of the intended use for the CNA because it can impact the calculations necessary to perform adequate accessibility assessments and can impact the acceptability of the report by RD. Unacceptable reports will not be used for any RD underwriting purposes even though they may otherwise be acceptable to the CNA Recipient or another third-party lender or participant in the transaction being proposed.

5. Guidance Regarding Contracting for a CNA

CNA Recipients are responsible for choosing the CNA Provider they wish to contract with, and for delivering an acceptable CNA to Rural Development. *RD in no way guarantees the performance of any Provider nor the acceptability of the Provider's work.*

CNA Recipients are advised to request an information package from several CNA Providers and to evaluate the information before selecting a provider. At a minimum, the information package should include a list of qualifications, a list of references, a client list, and a sample CNA report. However, the CNA Recipient may request any additional information they feel necessary to evaluate potential candidates and select a suitable provider for this service. Consideration for the type of CNA required should be part of the CNA Recipient's selection criteria and inserted into the contract language as well. The necessary skill set to perform the ''as-is'' versus the Post Rehabilitation CNA or a LCCA needs to be considered carefully. Knowledge of the accessibility laws and standards and the ability to read and understand plans and specifications should also be among the critical skill elements to consider.

Attachment A, Contract Addendum must be submitted to RD with the contract and signed by the CNA Recipient and CNA Provider. The proposed agreement with the CNA Recipient and CNA Provider must meet RD's qualification requirements for both the provider and the CNA SOW, as specified in *Attachment B, Capital Needs Assessment Statement of Work.* RD must review the proposed agreement between the CNA Recipient and the CNA Provider, and will concur only if all of the RD requirements and conditions are met. (See the previous section 3 of this Addendum, *The CNA Review Process.*)

Please note: It is in the CNA Recipient's best interest to furnish the CNA Provider with the most current and up-to-date property information for a more comprehensive and thorough CNA report. RD recommends that the CNA Recipient conduct a pre-inspection meeting with the Owner, Property Manager, maintenance persons familiar with the property, CNA Provider, and Agency Representatives at the site. This meeting will allow a forum to discuss specific details about the property that may not be readily apparent to all parties involved during the review process, as well as making some physical observations on-site. Any issues that may not be evident to the CNA Provider due to weather conditions at the time of review should also be discussed and included in the report. Other issues that will need to be addressed if present include environmental hazards, structural defects, and complex accessibility issues. It is imperative that the Agency be fully aware of the current physical condition of the property at the time the CNA is prepared. An Agency representative must make every effort to attend the CNA Provider's on-site inspection of the property unless the Agency has performed a physical inspection of the property within the previous 12 months.

This pre-inspection meeting also allows the CNA Provider to discuss with the CNA Recipient the total number of units to be inspected, as well as identifying any specific units that will be inspected in detail. The minimum number of inspected units required by the Agency for an acceptable CNA is 50 percent. However, inspecting a larger number of units generally provides more accurate information to identify

the specific line items to be addressed over the ''term'' being covered by the CNA report. CNA Recipients are encouraged to negotiate with the CNA Provider to achieve inspection of all units whenever possible. The ultimate goal for the CNA Recipient and CNA Provider, as well as the Agency, is to produce the most accurate ''baseline or snapshot'' of current physical property conditions for use as a tool in projecting future reserve account needs.

6. Revising an Accepted CNA During Underwriting (Applies to RD Actions)

During transaction underwriting and analysis, presentation of the information contained in the ''accepted'' CNA may need to be revised by RD to address financing and other programmatic issues. The loan underwriter and the CNA Reviewer will work together to determine if revisions are necessary to meet the financial and physical needs of the property, and established RD underwriting or servicing standards and principals. These may involve shifting individual repair line items reported in the CNA, moving work from year to year, or other adjustments that will improve cash flow. The revised underwriting CNA will be used to establish reserve funding schedules as well as operating budget preparation and analysis and will be maintained by RD as supporting documentation for the loan underwriting.

The initial CNA, prepared by the CNA Provider, will be maintained as an independent third-party record of the current condition of the property at the beginning of the 20-year cycle.

Original CNAs will be maintained in the case file, clearly marked as either ''Current Property Condition'' (''As-is''), ''Post Rehabilitation Condition'', or ''Revised Underwriting/Replacement Schedule'', as applicable. *Note:* The CNA Provider is not the appropriate party to ''revise'' a CNA which has already been approved by the CNA Recipient and concurred with by the Agency. The CNA Provider's independent opinion was the basis of the ''As is'' or ''Post Rehabilitation'' CNA. The CNA developed for underwriting may only be revised by RD staff during the underwriting process or as part of a post-closing servicing action.

7. Updating a CNA (Applies to ''As-Is'' and ''Post-Rehabilitation'' That Have Not Been Accepted by RD)

A completed CNA more than a year old at the time of the RD CNA review and approval must be ''updated' prior to RD approval. Likewise, if at the time of underwriting the CNA is more than a year old (but less than two years old), it must be updated before the transaction can be approved. If the CNA age exceeds two years at the time of the RD CNA review and approval, the CNA Provider will need to repeat the site visit process to re-evaluate the condition of the property. The original report can remain the basis of the findings.

To update a CNA, the CNA Provider must review property changes (repairs, improvements, or failures) that have occurred since the date of the original CNA site visit with the CNA Recipient, review costs and quantities, and submit an updated CNA for approval. However, if the site visit for the CNA occurred more than two years prior to the loan underwriting, the CNA Provider should perform a new site visit to verify the current project condition.

Once the CNA has been updated, the CNA Provider will include a statement noting ''This is an updated CNA of the earlier CNA dated _____,'' at the beginning of the CNA's Narrative section. The CNA Provider should reprint the CNA with a new date for the updated CNA, and provide a new electronic copy to the CNA Recipient and RD.

8. Incorporating a Property's Rehabilitation Into a CNA

A CNA provides a repair schedule for the property in its present condition, indicating repairs and replacements necessary for a property to function properly and efficiently over a span of 20 years. It is not an estimate of existing rehabilitation needs, or an estimate of rehabilitation costs. If any rehabilitation of a MFH development is planned as part of the proposed transaction, a rehabilitation repair list (also called a ''Scope of Work'') must be developed independently based on the CNA repair schedule. This rehabilitation repair list may be developed by the CNA Recipient, a project Architect, or an outside party (such as the CNA Provider, when qualified) hired by the CNA Recipient.

The CNA Recipient must not use repair line-item costs taken from the CNA to develop the rehabilitation cost estimates for the rehabilitation loan, as these costs will not be accurate. The repair costs in a CNA are based on estimated costs for the property. Typically, these costs include the labor, materials, overhead and profit, but do not include applicable ''soft costs.'' For example, for CNA purposes, the probable cost is to send a repairman out, remove an appliance, and put a new one in its place. For rehabilitation cost estimates, the CNA Recipient typically intends to hire a general contractor to oversee and supervise the rehabilitation work, which is then considered a ''soft cost''. The cost of rehabilitation includes the costs for that general contractor, the general contractor's requirements, the cost of a project Architect (if one is used), tenant relocation (if needed), and interim financing (if used), which are considered ''soft costs'' attributed to the rehabilitation costs for the project.

If a ''Post Rehabilitation'' CNA is required and authorized by RD, a copy of the rehabilitation repair list or SOW must be provided to the CNA Provider. The CNA Provider will prepare a ''Post Rehabilitation'' CNA indicating what repairs are planned for the property in the coming 20 years based on conditions after the rehabilitation is completed. Items to be replaced during rehabilitation that will need to be replaced again within the 20 years, such as appliances, will be included in the ''Post Rehabilitation'' CNA. Items that will not need replacement during the coming 20 years, such as a new roof, will not need to be calculated in the ''Post Rehabilitation'' CNA. The line item should not be removed from the CNA, but the cost data should be zeroed out. Appropriate comments should be included in the CNA report to acknowledge the SOW or rehabilitation/repairs that were considered.

9. Repair and Replacement Schedule

A CNA is not a formal repair and replacement schedule and cannot be used as an exact replacement schedule. A CNA is an estimate of the anticipated replacement needs for the property over time, and the associated replacement costs. The goal of a CNA is to estimate the replacement times based on the Expected Useful Life (EUL) to assure funds are available to replace equipment as it is needed. Hopefully, materials will be well maintained and last longer than estimated in the CNA. The CNA cannot be used to mandate replacement times for the identified building components. The RD underwriter may find it necessary to adjust the proposed replacement schedule during the course of the underwriting to allow for an adequate Annual Deposit to Replacement Reserves (ADRR) payment that will sustain the property over a 20-year period and keep rents below the maximum rents that are allowed.

BILLING CODE 3410–XV–P

Attachment A

ADDENDUM TO THE CAPITAL NEEDS ASSESSMENT CONTRACT

(Between CNA Recipient and CNA Provider)

This ADDUNDUM to the CAPITAL NEEDS ASSESMENT (CNA) CONTRACT between _____ **(CNA Provider)** and **(CNA Recipient)** is entered intothis_____day of__, 20 _____(the Effective Date) for the property known as _____ **(Property)**.

DEFINITIONS

"Acceptance" means the act of an authorized representative of the United States Department of Agriculture (USDA), Rural Development by which the representativeapproves the Agreement and this Addendum.
"Agreement" means the contract entered into between the CNA Recipient and the CNA Provider to provide a CNA of the property. It includes the original document entered intobetween the parties, this Addendum, and any other document incorporated by the Agreement.
"CNA Report" means a report in general conformance with the *Statement of Work* that isattached hereto and the *Fannie Mae Physical Needs Assessment Guidance to the PropertyEvaluator*.
"**CNA Reviewer"** means a person assigned to review the CNA report on behalf ofUSDA, Rural Development program.
"CNA Provider" means the person or entity entering into the Agreement with the CNARecipient to perform all work required to provide a CNA of the property.
"CNA Recipient" means the person or persons who have or will have legal title and/or ownership of a property participating under USDA, Rural Development programs.
"Program" means any MFH program authorized by Section 514 or 515 of the Housing Act of 1949, as amended and administered by USDA, Rural Development.
"Property" means any structure(s), dwelling(s) and/or land that is the subject of any Multifamily Housing program administered by the U.S. Department of Agriculture, Rural Development, and for which a CNA is required by U.S. Department of Agriculture,Rural Development.
"USDA RD" means the United States Department of Agriculture, Rural Development.

"**Work"** means the *CNA Statement of Work* as attached hereto.

RECITALS

WHEREAS, the property known as_____**Property** is included in the program being administered by **USDA RD**.

WHEREAS, as a condition of participating in the program, the CNA Recipient is required to obtain a CNA for the Property, which has been prepared inaccordance with the Statement of Work; CNA Recipient and CNA Provider must agree to a Contract to prepare a CNA for the Property.

WHEREAS, CNA Provider and CNA Recipient are parties to that certain CNA Contract, dated _____, 20_, **Agreement**, pursuant to which the CNA Recipient has retained the services of CNA Provider to provide a CNA for the Property for the base Contract amount of $_____and for itemized "Additional

Services" as follows: (see listing inspection i.e. below,) in the amount of $_____ per item or service. The total Contract amount is $_____.

WHEREAS, the parties hereby wish to incorporate into the **Agreement** andits Exhibits certain additional provisions as set forth below.

NOW, THEREFORE, in consideration of the promises and mutual covenantscontained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree to the following additional terms and conditions as follows:

ADDITIONS TO THE AGREEMENT
(Between CNA Recipient and CNA Provider)

I. CNA RECIPIENT OBLIGATIONS

a. SUBMISSION OF CONTRACT FOR CONCURRENCE BY USDA RD

CNA Recipient will promptly submit to **USDA RD** for review and concurrence a copyof the executed **Agreement** and this Addendum.

b. NOTIFICATION OF CONCURRENCE OF AGREEMENT BY USDARD

Upon receiving notification from USDA RD of its concurrence of the Agreement, CNA Recipient will promptly furnish CNA Provider with evidence of this acceptance.

c. ACCESS TO THE PROPERTY

Owner must allow CNA Provider, CNA Recipient and; if requested, the CNA Reviewer, complete, timely and unconditional access to the Property and its premises for the purpose of conducting the inspections that are required for preparing the CNA.

d. FURNISHING PROPERTY INFORMATION

At least_____(number) day(s) prior to the commencement of the CNA inspection, CNA Recipient must furnish to the CNA Provider all information on any recent and/or immediate planned capital improvements to the Property,any recent and/or scheduled repairs, finalized maintenance schedules, and information on the existence of any known environmental hazards at the property. In addition, Owners must provide any available information on any current "Transition Plan" and "Self -Evaluation" addressing proposals for complying with all applicable Federal accessibility requirements, and other matters relevant to the CNA Statement of Work.

Specific items the CNA Recipient should provide the CNA Provider include:

1. Contact information for the Owner's representative at **USDA RD** (Name,address, telephone number, e-mail address, etc.).
2. Building-by-building breakdown of units by bedroom count and type (i.e.garden, townhouse, fully accessible) to aid in selection of units at time of inspection.
3. Any available plans or blueprints of development (as-built drawingspreferred).
4. Listing of capital expenditures for the Property over the past three to five yearsand maintenance expenditures over the last 12 months.
5. Maintenance logs to help identify any significant or systemic areas of concern.
6. Copies of invoices for any recently completed capital improvements and/orcopies of quotes for any pending/planned capital improvements.
7. A valid/current Section 504 Accessibility Self Evaluation/Transition Plan (nomore than three years old).
8. Any available capital/physical needs assessments (CNAs/PNAs) that werepreviously completed.
9. Any available structural or engineering studies that were previouslycompleted.
10. Any available reports related to lead-based paint testing or other environmental hazards (i.e. asbestos, mold, underground storage tanks, etc.) that were previously completed and/or related certifications if environmentalremediation has been completed.
11. Reports including, but not limited to: local Health Department inspections,soils analysis, USDA's last compliance review, or USDA's last security inspection.
12. If the CNA Recipient certifies below that (a) third-party funds have been committed for use in the transaction for which the CNA is required; and (b)**USDA RD** has communicated its acceptance or acknowledgement of the availability of these funds (whether by an award of points in a portfolio revitalization program or otherwise); and (c) these funds are to be used towards a rehabilitation program at the Property, the CNA Recipient will provide the CNA Provider with a copy of the proposed rehabilitation scopeand budget.

e. ADDITIONAL SERVICES

When a CNA exceeds the one-year duration beyond the original acceptance dateof the document, the report is required to be updated. The Contract should designate anticipated tasks and costs that would be necessary to update the CNAafter the one-year or two-year time frames have been exceeded. The Contract should include, at a minimum:

1. Identify Property where update is required.
2. Itemized list of possible tasks to be performed to accomplish the update:Time and materials

Interviews
Document reviews (photos, construction documents, contracts, etc.).
Additional site visit as required (travel).

3. Associated unit costs for each task required for the CNA Update.

II. CNA RECIPIENT'S CERTIFICATIONS – CNA Recipient hereby certifies asfollows:

a. STATUS OF PROPOSED CNA (check correct box)

☐ CNA Recipient **has** received a **commitment** for third-party funding for the revitalization transaction for which application was made. **The CNAProvider will create the CNA based on existing conditions "as is"**. CNA Recipient is responsible for the Scope of Work and budget for the proposed rehabilitation of the Property (typically obtained from a projectArchitect), incorporating any requirements of the third-party lender. TheCNA Provider will then revise their CNA based on the anticipated conditions "post rehabilitation" of the Property after the rehabilitation. Both CNAs will be provided to Rural Development.

☐ CNA Recipient **has requested or will request** third-party funds but has no commitment. If CNA Recipient does not have a commitment of third-party funds, CNA Reviewer agrees that it is within USDA RD's sole discretion to determine whether the CNA Provider should consider any rehabilitation Scope of Work and budget for a "post rehabilitation" CNA after conducting a CNA based on the Property's "as is" condition. USDARD will make such a determination on the likelihood of third-party funds being made available. CNA Provider should verify this decision with Rural Development prior to performing a "post rehabilitation" CNA.

☐ CNA Recipient does not anticipate third-party funds being utilized, or does not anticipate a rehabilitation at this time. In this case, the CNAProvider will conduct a normal review of the Property, not including/anticipating any rehabilitation, and base the CNA on the existing conditions at the Property.

NOTE: The CNA Recipient will not instruct the CNA Provider to perform a "post rehabilitation" CNA without approval from Rural Development.

b. COMPLIANCE WITH STATEMENT OF WORK

CNA Recipient must allow the CNA Provider to comply with the Statement of Work in creating and developing a CNA report that will incorporate and meet all terms, conditions and requirements as set forth in the attached Statement of Work. CNA Recipient must not impede or attempt to influence the CNA Provider's impartiality inapplying the CNA requirements and guidelines established by Rural Development in describing the physical condition and needs of the Property.

c. AVAILABILITY

CNA Recipient must be available to promptly discuss any draft or preliminary CNAreport with the CNA Provider and must address in writing to the CNA Reviewer anydesired revisions, corrections, comments or concerns the CNA Recipient may have relating to such report.

d. ADDRESSING DEFICIENCIES

CNA Recipient must promptly furnish to the CNA Provider USDA RD's CNA Review report. CNA Recipient will discuss any deficiencies observed by the CNA Reviewer and request that the deficiencies be addressed within five (5) working days. Should deficiencies not be addressed within five (5) working

days, CNA Recipient may order the CNA Provider in writing to suspend, delay, or interrupt all or any part ofthe work under the Agreement that remains to be performed for such period of time until deficiencies identified by the CNA Reviewer have been satisfied.

e. PAYMENT

The CNA Recipient must pay the CNA Provider 50 percent of the negotiated contractamount for the base CNA Contract once the Contract for CNA services has been executed. If the CNA Recipient chooses to include and pay for additional services from the CNA Provider exceeding the negotiated base CNA Contract amount, then these services must be listed and the payment method addressed in the Contract between the CNA Recipient and CNA Provider. If funds for additional services will be withdrawn from the reserve account, then 50 percent of the base Contract amount along with the additional services will be paid once the contract for CNA services hasbeen executed.

Upon concurrence by the CNA Reviewer of the CNA Provider's final report (signatureof Reviewer and Underwriter required), the CNA Recipient will promptly satisfy and pay the remaining 50 percent balance of the base Contract amount and additional services if they are paid for out of the reserve account. Any remaining fees and/or dues owed to the CNA Provider pursuant to the terms of the Agreement will also be due upon the CNA Reviewer's concurrence of the CNA Provider's final report. Other payments must be subject to the schedule identified in the Agreement.

III. CNA PROVIDER'S OBLIGATIONS – (applies to "as-is" "updates" and"post rehabilitation")

a. CNA PROVIDER'S RESPONSIBILITY FOR WORK

The CNA Provider must furnish all necessary labor, materials, tools, equipment, and transportation necessary for performance of the work as described in the Statement ofWork, which is attached hereto. The format utilized for this report must be _____. (Write in "USDA RD CNA Template in Microsoft ExcelFormat" or similar electronic format.)

b. COMPLIANCE WITH STATEMENT OF WORK

CNA Provider will comply with the Statement of Work by creating and developing a CNA report that will incorporate and meet all terms, conditions and requirements as setforth in the attached Statement of Work.

c. DELIVERY OF PRELIMINARY CNA REPORT

CNA Provider must promptly provide to the CNA Recipient and USDA RD apreliminary CNA report.

d. AVAILABILITY TO DISCUSS CNA REPORT FINDINGS

CNA Provider must take any reasonable measures to be readily available to discuss and respond to any findings, concerns, comments, or revisions the CNA Reviewer mayhave regarding the preliminary CNA report.

e. SUBMISSION OF FINAL CNA REPORT

After receipt of the CNA Reviewer's report, the CNA Provider must promptly providethe CNA Recipient and USDA RD with a finalized CNA report. The finalized report will incorporate observations, comments and/or changes identified by the CNA Reviewer.

IV. CNA PROVIDER'S CERTIFICATIONS CNA Provider hereby certifies asfollows:

a. LICENSING AND COMPLIANCE

CNA Provider possesses valid and current licenses and certifications necessary to comply with the Statement of Work and as regulated by all applicable State, county,and/or local laws and/or ordinances.

b. CONFLICTS OF INTEREST

CNA Provider has no identity of interest as defined in 7 CFR part 3560 with CNA Recipient or Owner's Property or the management agency/company for the Property.

c. PROPERLY TRAINED

CNA Provider and any Provider personnel who will have actual responsibility for theProperty inspection and preparation of the CNA are properly trained and experienced in evaluating site and building systems, health and safety conditions, physical and structural conditions, environmental and accessibility conditions, and estimating costsfor repairing, replacing and improving site and building components.

d. PROFESSIONALLY EXPERIENCED

CNA Provider and any Provider personnel who will have actual responsibility for the Property inspection and preparation of the CNA are professionally experienced in preparing and providing CNA's for multifamily housing properties that are similar in scope and operation to those typically financed in USDA RD's Multifamily Housing program.

e. KNOWLEDGEABLE OF CODES

CNA Provider and any Provider personnel who will have actual responsibility for theProperty inspection and preparation of the CNA are knowledgeable about applicable site and building standards and codes, including Federal, State and local requirementson environmental and accessibility issues.

f. DEBARMENT AND SUSPENSION

CNA Provider is not debarred or suspended from participating in Federally assisted programs and will comply with the requirements of 7 CFR part 3017 and 2 CFR part 417 or any successor regulation, pertaining to debarment or suspension of a personfrom participating in a Federal program or activity.

g. SIGNED CERTIFICATION

Include a written and signed certification by the CNA Provider that it meets all of the above qualifications for the proposed Agreement with the CNA Recipient for CNA services. [The CNA Provider's execution of this Addendum will constitute its "writtenand signed certification" that it meets these qualifications.]

V. MISCELLANEOUS

a. USDA RURAL DEVELOPMENT PROVISIONS

Upon request of the CNA Provider or CNA Recipient, USDA RD will make availablepertinent project data such as the reserve replacements for the last 2-3 years, budget summary of the last two years, and copies of Physical Inspections and Supervisory Visits for the Property, if available.

b. ASSIGNMENT OF CONTRACT

CNA Provider must not assign or transfer any interest in or performance of this Contract, without written authorization from the CNA Recipient and a USDA RDrepresentative.

c. ENTIRE AGREEMENT

If there are inconsistencies between any provision in this Addendum and any provisionin the Agreement, the provision in this Addendum must govern. No oral statements orrepresentations or prior written matter contradicting this instrument must have any force and effect.

d. GOVERNING LAW

All matters pertaining to this Addendum (including its interpretation, application, validity, performance and breach) in whatever jurisdiction action may be brought, must be governed by, construed and enforced in accordance with the laws of the Stateof_____. (Location of the Property)

e. HEADINGS

This Addendum must be governed by and interpreted as part of the Agreement and itsgeneral terms and conditions.

f. TERMS AND CONDITIONS

Except as expressly stated herein, all other terms and conditions of the Agreementmust remain in full force and effect.

IN WITNESS WHEREOF, the undersigned who are duly authorized to execute andenter into this Addendum, intending to be legally bound hereby, have executed this Addendum as of the date first written above.

Project:

Project Location:

CNA Recipient

CNA Provider

By its: (Title/Position)

By its: (Title/Position)

Concurred by:

The United States Department of Agriculture, Rural Development

Rural Development Representative

Title/Position

Attachment B

CAPITAL NEEDS ASSESSMENT STATEMENT OF WORK

Nature of the Work

A Capital Needs Assessment (CNA) is a systematic assessment to determine a Property's physical capital needs over the next 20 years based upon the observed current physical conditions of a Property. The CNA report provides a year-by-year estimate of capital replacement costs over this 20-year period for use by the CNA Recipient and the U.S. Department of Agriculture (USDA) Rural Development (RD) personnel in planning the reserve account for replacements and other funding to cover these costs.

Note: RD will use the CNA report as a key source of information about expected capital needsat the Property and the timing of these needs. However, the CNA report is only an estimate of these needs and their timing. It should ***not*** *be viewed as the formal schedule for actual replacement of capital items. Replacement of capital items should occur when components reach the end of their actual useful life, which may occur earlier or later than estimated in the CNA report.*

Payment

The CNA Recipient must pay the CNA Provider 50 percent of the negotiated Contract amount for the base CNA Contract amount once the Contract for CNA services has been executed. If the CNA Recipient chooses to include and pay for additional services from the CNA Provider exceeding the negotiated base CNA Contract amount, then these services must be listed and the payment method addressed in the Contract between the CNA Recipient and CNA Provider. If funds for additional services will be withdrawn from the reserve account, then 50 percent of the base Contract amount along with the additional services will be paid once the Contract for CNA services has been executed.

Upon concurrence by the CNA Reviewer of the CNA Provider's final report (signature of Reviewer and Underwriter required), the CNA Recipient will promptly satisfy and pay the

remaining 50 percent balance of the base Contract amount and additional services if they arepaid for out of the reserve account. Any remaining fees and/or dues owed to the CNA Provider pursuant to the terms of the Agreement will also be due upon the CNA Reviewer's concurrence of the CNA Provider's final report. Other payments must be subject to the schedule identified in the Agreement.

Qualifications

The CNA Provider must:

1. Possess valid and current licenses and certifications necessary to comply with the Statement of Work and as regulated by all applicable State, county and/or local lawsand/or ordinances.

2. Have no identity of interest as defined in 7 CFR part 3560, with CNA Recipient or owner's Property, or management agent. An architectural firm performing a CNA whichis also involved in the rehabilitation of the Property would be considered an Identity of Interest. For example: the Architect that performs the CNA assessment could overstate the conditions of the Property in order to inflate the rehabilitation scope, resulting in an increase to the Architect's compensation which is typically a percentage of theconstruction costs.

3. Be properly trained and experienced in evaluating site and building systems, health and safety conditions, physical and structural conditions, environmental and accessibility conditions, and estimating costs for repairing, replacing, and improving site and building components. (This applies to the CNA Provider or any Provider personnel who will have actual responsibility for the property inspection and preparation of the CNA.)

4. Be professionally experienced in preparing and providing CNAs for Multifamily Housing properties that are similar in scope and operation to those typically financed in USDA RD's Section 515 program. (This applies to the CNA Provider or any Provider personnel who will have actual responsibility for the Property inspection and preparationof the CNA.)

5. Be knowledgeable about applicable site and building standards and codes including Federal, State and local requirements on environmental and accessibility issues. (Thisapplies to the CNA Provider or any Provider personnel who will have actual responsibility for the Property inspection and preparation of the CNA.)

6. Not be debarred or suspended from participating in Federally assisted programs and will comply with the requirements of 2 CFR parts 417 and 180 or any successor regulation, pertaining to debarment or suspension of a person from participating in a Federal program or activity.

Statement of Work

The CNA Provider must:

1. Perform a CNA in general conformance with the document: "Fannie Mae PhysicalNeeds Assessment Guidance to the Property Evaluator," except as modified herein.

2. Inspect the property. A minimum of **50 percent** (50 percent if less than 50 units) (45 percent if Property includes 50 – 99 units, 40 percent if the Property contains 100 or more units) of all dwelling units must be inspected in a non-intrusive manner. Consideration must be given to inspecting at least one unit per floor, per building, and per unit type (one-bedroom, two-bedroom, etc.) up to the threshold percentage.

CNA Providers must ultimately be responsible for appropriate unit sampling but are encouraged to consult with site representatives to gather adequate information. This willhelp ensure that unit samples represent a cross-section of unit types and current physical conditions at the Property and are reflective of substantive immediate physical condition concerns.

All site improvements, common facilities (every central mechanical room, every laundry etc.), and building exteriors must be inspected. (American Society for Testing and Materials (ASTM) guidelines, allowing for "representative observations" of major elements are not adequate in this regard. Although inspections are "non-intrusive", CNA Providers must include an inspection of crawlspaces and attics (when these spaces can be reasonably and safely accessed) in a number sufficient to formulate an opinion of the condition of those spacesand any work necessary). All units designated as fully accessible for the handicapped must be inspected. The inspection must include interviews with the CNA Recipient, applicant/transferee, management staff, and tenants as needed. It must also include consideration of all relevant Property information provided by the CNA Recipient, including:

- Contact information for the client's representative at Rural Development (Name,address, telephone number, e-mail address, etc.).
- Building-by-building breakdown of units by bedroom count and type (i.e. garden,townhouse, handicap accessible) to aid in selection of units at time of inspection.
- Any available plans or blueprints of development (as-built drawings preferred).
- Listing of capital expenditures for the Property over the past three to five years and maintenance expenditures over the last 12 months.
- Maintenance logs to help identify any significant or systemic areas of concern.
- Copies of invoices for any recently completed capital improvements and/or copies ofquotes for any pending/planned capital improvements.
- A valid/current Section 504 Accessibility Self-Evaluation/Transition Plan (**no morethan three years old**).

- Any available capital/physical needs assessments (CNAs/PNAs) that were previously completed.
- Any available structural or engineering studies that were previously completed.

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- Any available reports related to lead-based paint testing or other environmental hazards(i.e. asbestos, mold, underground storage tanks, etc.) that were previously completed and/or related certifications if environmental remediation has been completed.
- Reports including but not limited to: local Health Department inspections, soilsanalysis, USDA's last Civil Rights compliance review, USDA's last security inspection.
- If the CNA Recipient certifies that: (a) third-party funds have been committed for use in the transaction for which the CNA is required; and (b) USDA RD has communicated its acceptance or acknowledgement of the availability of these funds(whether by an award of points in a portfolio revitalization program or otherwise); and (c) these funds are to be used towards a rehabilitation at the Property, the CNARecipient will provide the CNA Provider with a copy of the proposed rehabilitationscope and budget. Attachment J provides more rehabilitation requirements.

3. Prepare a report using forms developed by Rural Development or other similar documents. The report must be on an electronic worksheet in excel format commonlyused in the industry, or as prescribed elsewhere herein. The report must contain the following components, at a minimum:

a. Project Summary. Identification of the CNA Provider and CNA Recipient, and abrief description of the project, including the name, location, occupancy type (family/elderly) and unit mix.

b. Narrative. A detailed narrative description of the Property, including year the property was constructed or rehabilitated (of each phase if work completed in multiple phases), interior and exterior characteristics, conditions, materials and equipment, architectural and structural components, mechanical systems, etc. it must also include:

i. Number, types, and identification of dwelling units inspected and used as a basisfor the findings and conclusions in the report;

ii. An assessment of how the Property meets the requirements for accessibility topersons with disabilities;

a) The report must include any actions and estimated costs necessary to correct deficiencies in order for the Property to comply with applicable Federal, State, and local laws and requirements on Section 504 accessibility. The report must also include an opinion on the adequacy of any existing and approved Transition Plans for the Property in accordance with USDA RD requirements. CNA Providers mustnot assume that a Property built in accordance with accessibility standards prevailing at the time of original construction is "grandfathered" on

accessibility requirements.

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Attachment B

b) The CNA Provider must include in the final report an accessibility evaluation in accordance with all applicable Federal accessibility requirements and standards. CNA Providers are strongly encouraged to review Appendix 5 to HB-2-3560.

iii. An assessment of observed or potential on-site environmental hazards (e.g.,above or below ground fuel storage tanks, leaking electrical transformers);

Note: The narrative portion of the report must address and include any existing testing results for the presence of radon, lead in water, lead-based paint, and other environmental concerns. CNA Providers are not expected to conduct or commission any testing themselves. However, where test results provided by the CNA Recipient affirmatively point to hazards, the CNA Provider must inquire aboutsubsequent remediation steps and include cost allowances for any identified hazards not yet remediated.

iv. Recommendations for any additional professional reports as deemed necessaryby the CNA Provider, such as additional investigations on potential structural defects or environmental hazards;

Note: The narrative portion of the report must address each study or report necessary; why, and what expertise is needed so that the CNA Recipient can alleviate that issue, including estimates for repairs, prior to underwriting. It is not the CNA Provider's responsibility to estimate the cost of the study or repairs/ remediation necessary.

v. Needs of the Property funded or to be funded from a third-party (if any), such astax credits, including a brief description of the work, the source of funding, the year(s) the work is planned to be completed, and the total estimated costs in current dollars; and:

Note: For projects where the CNA Recipient advises the CNA Provider that third-party funding for rehabilitation is committed and the work will begin within 12 months, the CNA must address the existing conditions at the Property, ***and*** *the "post-rehabilitation" needs at the Property. An example would be a CNA Recipient who has submitted a pre-application to Rural Development for the Multifamily Preservation and Revitalization (MPR) Demonstration Program where Rural Development has awarded points to the application for third-party funding,and it has committed third-party funding. Under the MPR, a CNA Recipient who has applied for third-party funding for rehabilitation but does not have a commitment for this funding must have the CNA prepared based on conditions at the Property "as is," not "post rehabilitation". In these cases, consult with RuralDevelopment as to whether a "post rehabilitation" CNA should be done. When aCNA Recipient receives the funding commitment, and rehabilitation is planned within the next 12 months, the CNA Contract must be renegotiated to indicate thatrehabilitation is planned and specify that a "post rehabilitation" CNA should be prepared.*

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In preparing CNAs for these properties, the CNA Provider should undertake the CNA on the

basis that the third-party funded rehabilitation will occur as describedin the Scope of Work for the rehabilitation project provided by the CNA Recipient and determine the Property's "post-rehabilitation" capital needs over the next 20 years. In these cases, the CNA Provider is expected to review and understand the Scope of Work for planned rehabilitation funded from third-party sources, but aside from apparent substantive omissions is not required to comment on the planned rehabilitation.

If there is no evidence that third-party funding for rehabilitation has been committed (e.g., if rehabilitation is not indicated in the Rural Development pre-application and/or Rural Development has not awarded points for it), then the CNA Provider must verify with the Rural Development contact prior to performinga "post rehabilitation" CNA. If no funds are committed, and Rural Development does not agree to a "post-rehabilitation" CNA, the CNA Provider may note the CNA Recipients rehabilitation proposal in the CNA but the report must be undertaken as though there will be no immediate rehabilitation. In these cases, theCNA must be based on the CNA Provider's independent professional opinion of current and future needs at the Property. (For example, if the CNA Recipient wishes for a rehabilitation, but has no funds allocated to perform one.)

vi. Acknowledgments (names and addresses of persons who: performed the inspection, prepared the report, and were interviewed during, or as part of theinspection).

c. Materials and Conditions. This component must be reported on a Microsoft Office Excel

© worksheet. The following major system groups must be assessed in the report: Site; Architectural; Mechanical and Electrical; and Dwelling Units. **ALL** materials and systems in the major groups must be assessed (not every specific material used in the construction of the Property), including the following items:

i. Item Description;

ii. Expected Useful Life (EUL). Data entries must be based on the EUL Table included in the "Fannie Mae Physical Needs Assessment Guidance to the PropertyEvaluator", unless otherwise explained in the report based upon the installation or most recent replacement date, quality, warranty, degree of maintenance or any other reasonable and documentable basis. Any EUL entry that varies from the Table must include an explanation in the "Comments" column. Any EUL that varies from the table by 25 percent or more must be adequately supported separately from spreadsheet (for example, provide the documentation or explanation in the Narrative section);

iii. Age. The actual age of the material or system;

iv. Remaining Useful Life (RUL). Any RUL entry that varies from the difference between the EUL and age must be explained in the "Comments" column. Any RUL entry that varies 2 years or more must be adequately supported separately from the spreadsheet (for example,

provide the documentation or explanation in the "Narrative" section). Variances of more than 25 percent will not be accepted;

v. Condition. The current physical condition (excellent – good – fair – poor) of thematerial or system;

vi. Description of action needed (repair – replace – maintain construct – none); and,

vii. Comments or field notes that are relevant to the report.

d. Capital Needs. This component must be reported on a Microsoft Office Excel © worksheet. This component identifies all materials and systems for each of the four majorsystem groups to be repaired, replaced, or specially maintained. It must include the following items for such materials or systems:

i. Year or years when action is needed;

ii. Number of years to complete the needed action (duration of the repair work);

iii. Quantity and Unit of Measure. Any data entry that is not from a physical Property measurement or observation during the inspection must be explained in the report (contrary to ASTM guidance, lump sum allowancesmust be used only for capital projects, such as landscaping, that cannot readily be quantified); and,

iv. Estimated repair, replacement, or special maintenance unit cost and total cost in current (un-inflated) dollars for each line item. The report must identify the source(s) used for the cost data. Entries must include estimated costs for materials, labor (union or non-union wages, as appropriate), overhead & profit.

Consultant fees, and other associated costs may be incurred by the CNA Recipient when repair or replacement work involves extensive capital activities (e.g., a major landscaping or site drainage project). These activities are likely to include design costs, or the involvement of general contractors, with associated overhead and profit considerations. If the CNA Provider anticipates work will beaffected by these cost factors, notes should be added to the CNA spread sheet/report to explain the cost logic. Discussions with the CNA Recipient and the Agency will be necessary to confirm the proposed cost of these capital activities. CNA Providers using such standard cost sources must use costallocations that include overhead and profit.

Note: An estimated unit cost that is significantly different from an industry standard cost, such as RSMeans or equivalent, must be adequately supported.

Generally, replacement actions must involve "in-kind" materials, unless a different material is more appropriate, approved by the State Historic Preservation Office, if applicable, and explained in the report. Exceptions must be made for components that are seen as inadequate (e.g. twenty gallon water heaters, prompting resident complaints) or below contemporary design/ construction standards (e.g. single- glazed windows in temperate climates). Rural Development also encourages the consideration of alternative technology and materials that offer the promise

of reduced future capital and/or operating costs (more durable and/or less expensive to maintain over time, reduce utility expenses, etc.). CNA Providers are not expected to conduct quantitative cost-benefit analyses but must use sound professional judgment in this regard.

In addition to the exceptions described in the paragraph above, Rural Development may consider the inclusion of market-comparable amenities/upgrades (e.g. air conditioning in warm climates) proposed by the CNA Recipient when such features are essential to the successful operational and financial performance of the Property. Such items should be identified specifically in the CNA report as "CNA Recipient - recommended upgrades" and include an explanation of why these upgrades are necessary in supporting the financial and operational performance of the Property. Where included, CNA Provider comments on the feasibility and appropriateness of the upgrade are required.

v. The capital needs must be presented in two time frames:

a) Immediate Capital Needs. All critical health and safety deficiencies (e.g.inoperative elevator or central fire alarm system, missing/unsecured railings, blocked/inadequate fire egress, property-wide pest infestation) requiring corrective action in the immediate calendar year. Separately, the CNA Recipient must provide any repairs, replacements, and improvements currently being accomplished in a rehabilitation project, regardless of funding source, and anticipated to be completed within 12 months.

The CNA Recipient will includethe budget for any planned rehabilitation (e.g., rehabilitation proposed in the CNA Recipients pre-application to the MPR). CNA Provider can, but is not required, to offer comments about the rehabilitation budget. The CNA must notinclude minor, inexpensive repairs or replacements that are part of a prudent CNA Recipients operating budget. (If the aggregate cost for a material line item is less than $1,000, then the line item must not be included in the CNA.

An aggregate cost for a line item is an item which needs to be replaced in any given year, the cost exceeds the $1,000, and the item should be replaced in the one-year duration. **Applying a duration that exceeds one-year may decreasethe aggregate amount below the $1,000 threshold, thus circumventing the intent of the threshold to include a particular item in the CNA**.

Where immediate rehabilitation is proposed by the CNA Recipient using third-party funds, the CNA Provider must note the current condition and remaining effective useful lives of affected systems and components in an "as is" CNA.

b) Capital Needs over the Term. Such capital needs include significant maintenance, repairs, and replacement items required during subsequent twentycalendar years to maintain the Property's physical integrity and long term marketability. It must include repairs, replacements, and significant deferred maintenance items currently being planned and anticipated to be completed after the immediate calendar year and corrections for violations of applicable standards on environmental and accessibility issues. It must also include the needs described in paragraph 3.b.v. above in the appropriate year(s), if any, if these will not be completed within 12 months from the closing of the program revitalization transaction. The CNA must **not** include

minor, inexpensive repairs or replacements that are part of a prudent Property owner's operating budget. (If the aggregate cost for a material line item is less than $1,000, then the line item must not be included in the CNA. An aggregate cost for a line item is an item which needs to be replaced in any given year, the cost exceeds the $1,000, and the item should be replaced in the one-year duration. Applyinga duration that exceeds one-year may decrease the aggregate amount below the $1,000 threshold, thus circumventing the intent of the threshold to include aparticular item in the CNA.

Exceptions to these exclusions may be appropriate for very small properties, and/or for low cost items that may affect resident health andsafety (e.g., a damaged or misaligned boiler flue). For example, in smallprojects (total of 12 units or less), items exempted would be for materialline items less than $250, not $1,000. The report must be realistic and based on due diligence and consideration of the Property's condition, welfare of the tenants, and logical construction methods and techniques. The estimated unit costs and total costs to remedy the detailed needs must be provided in current (un-inflated) dollars.

Capital Needs over the term must be based on the actual remaining useful lives of the components and systems at hand. Aside from formal work that is accounted for in the "Immediate Capital Needs" section, capital activitiesmust not be "front-loaded."

Note: New components or upgrades addressed in a Property's rehabilitation may have long-term capital needs implications as well. Those items with expected useful lives of less than twenty years (e.g. air conditioners) also will need to be accounted for in Capital Needs over theTerm.

e. Executive Summary. This component must be reported on a MicrosoftOffice Excel © worksheet. It must include:

i. Summary of Immediate Capital Needs – the grand total cost of all majorsystem groups (in current dollars);

ii. Summary of Capital Needs Over the Term – the annual costs and grand totalcost of all major system groups (in current and inflated dollars). The inflation rate must be 3 percent; and,

iii. Summary of All Capital Needs – the grand total costs for the immediate and over the term capital needs (in current and inflated dollars). The grand total costs (in current and inflated dollars) per dwelling unit must also be included.

f. Appendices. This component must include a minimum 25 color digital photographs that describe: the Property's buildings (interior and exterior) and other facilities, specific material or system deficiencies, and the bathrooms and kitchens in the units accessible for the handicapped. Include a Property location map and other documentsas appropriate to describe the Property and support the findings and summaries in the report. The CNA Provider must provide some sort of visual documentation for each line item that cannot be clearly identified by a written description alone. For instance,if an entrance needs to become handicap accessible, a picture of the entrance will helpthe CNA Recipient understand where the construction should take place. The CNA Recipient needs to be able to associate reserve account funds with the correct line items during the life of the CNA during the underwriting process.

4. Deliver the following:

a. A minimum of one electronic copy of the report must be delivered on a compact disk, or other acceptable electronic media, e.g. e-mail, to both the CNA Recipientand USDA RD for their review and written acceptance. To the greatest extent possible, delivery must be made within 15 business days of execution of the Agreement with the CNA Recipient.

b. If the report is not acceptable, the CNA Provider must make the appropriate changesin accordance with the review comments. A minimum of one electronic Excel copyof the revised report must be delivered on a compact disk or via e-mail to both the CNA Recipient and USDA RD for their review and written acceptance. The delivery must be made within 5 business days of receiving the review comments.

c. If the revised report is still not acceptable, additional revisions will be made andelectronic Excel copies delivered on compact disks or via e-mail to the CNA Recipient and USDA RD until the report is acceptable.

5. Be available for consultation with the CNA Recipient or USDA RD after writtenacceptance of the report on any of its contents.

6. The CNA Provider must **NOT** analyze the adequacy of the Property's existing or proposed replacement reserve account nor its deposits as a result of the capital needsdescribed in the report.

Attachment C

FANNIE MAE PHYSICAL NEEDS ASSESSMENTGUIDANCE TO THE PROPERTY EVALUATOR

1. Transfer of Project Ownership;
2. Loan Reamortization;
3. Loan Write-Down; or
4. Development of an Equity Loan Incentive or EquityLoan for a Sale to a Non-Profit Sponsor.
5. Facility Rehabilitation, including MPR
6. New Construction

Introduction

While many factors affect the soundness of a mortgage loan over time, one of the most significant is the physical condition of the Property – past, present and future. A prudent lender must be concerned with the past maintenance and improvements because they may indicate owner and management practices as well as expenses to be incurred in the future. The lender must be concerned with the condition of the Property at the time the loan is made, and over the term of the loan, because Property conditions may directly impact marketability to prospective tenants and the need for major expenditures may impact the economic soundness and value of the Property. The lender must also be concerned with the condition of the Property at the end of the loan term. If the Property has deteriorated, the owner may not be able to secure sufficient financing to pay off the loan at maturity.

Most lenders have always given some attention to physical conditions and needs of properties in their underwriting. However, the amount of attention, the data secured, the quality and analysisof that data, and the impact of this information on underwriting has varied widely. Indeed, many properties and the loans that they secure are now in trouble because of inadequate consideration of physical needs in the underwriting coupled with inadequate attention to Property maintenance which has diminished the marketability and overall value of the Property.

The guidance and forms in this package, together with the guidance provided to our lenders in our Delegated Underwriting and Servicing (DUS) and Multifamily Guides, is based upon a desire to see a more standardized approach to assessing the physical needs of properties that will be securing our loans. These documents attempt to respond to stated desires on the part of our lenders for a "level playing field" among competing lenders who may otherwise have different notions of the level of data and analysis required to assess a Property's physical condition. They also attempt to respond to the needs of Property evaluators who, desiring to produce the quantity and quality of information deemed necessary, need specific guidance to avoid the appearance of glossing over problems or providing material which is too detailed or complex to be usable by the underwriters.

These documents are meant to provide useful guidance and tools to the evaluators. They cannot cover all situations and are not meant to be inflexible. They are designed to elicit the judgment of the evaluator (in a format which is useful to the underwriter), not to substitute for it. We welcome comments from evaluators in the field offices, as we did in developing this package, on improving either our forms or guidance so that this package can best serve the needs of both the evaluators and our lenders. If you have such comments, please contact:

April LeClair
Director of Multifamily Product Management
3900 Wisconsin Avenue, N.W.
Washington, D.C. 20016
(202) 752-7439.

Attachment C

Specific Guidance to the Property Evaluator

The purpose of the Physical Needs Assessment is to identify and provide cost estimates for the following key items:

- Immediate Physical Needs - repairs, replacements and significant maintenance itemswhich should be done immediately.
- Physical Needs Over the Term - repairs, replacements and significant maintenance items which will be needed over the term of the mortgage and two years beyond.

As part of the process, instances of deferred maintenance are also identified.

The assessment is based on the evaluator's judgment of the actual condition of the improvements and the expected useful life of those improvements. It is understood that the conclusions presented are based upon the evaluator's professional judgment and that the actualperformance of individual components may vary from a reasonably expected standard and willbe affected by circumstances which occur after the date of the evaluation.

This package explains how to use the set of forms provided by Fannie Mae. It is important to recognize that the forms are intended to help the evaluator conduct a comprehensive and accurate assessment. They also present the results of that assessment in a relatively standard format which will be useful to the lender in making underwriting decisions. However, the formsshould not constrain the evaluator from fully presenting his or her concerns and findings. The forms should be used and supplemented in ways which facilitate the preparation and presentation of information useful to the lender regarding the physical needs of the Property.

The Systems and Conditions forms may be altered and/or computerized to serve the evaluators' needs so long as information is provided on the condition and Effective Remaining Life (ERL) of all components and the ERL is compared to the standard Expected Useful Life (EUL). The Summary forms may also be extended or computerized so long as the basic format is maintained.

Attachment C

Terms of Reference Form

The lender completes this form for the evaluator. It serves as a reference point for the assessment and provides the evaluator with basic information about the property and the term ofthe loan. Four additional topics are covered:

- *Sampling Expectations* - The lender's expectations about the number and/or percentage of dwelling units, buildings and specialized systems to evaluate may be stated. If there is no stated expectation, the evaluator should inspect sufficient units, buildings, and numbers of specialized systems to state *with confidence* the present and probable future condition of each system at the Property. The evaluator should provide a separate statement indicating the sampling systems used to ensure a determination of conditions and costs with acceptable accuracy. If a sampling Expectation is provided by the lender which is not adequate to achieve the requisite level of confidence, the evaluator should soadvise the lender.

Considerations in determining an adequate sample size are age and number of buildings (especially if the Property was developed in phases), total number of units, and variations in size, type and occupancy of units. Effective sampling is based on observing a sufficient numberof each significant category. Using the above criteria, categories could include *buildings by ageof each building* (e.g. inspect buildings in the 8-year old phase and in the 11-year old phase), *buildings by type* (e.g. rowhouse, L-shaped rowhouse, walkup, elevator) and/or *buildings by construction materials* (e.g. inspect the garden/flat roof/brick walls section and the garden/pitched roof/clapboard walls section). Dwelling units are separate categories from buildings. At a minimum, sampling is by unit size (0/1/2/3/4 bedrooms). There may be further categories if units are differently configured or equipped, or have different occupants (especially family or elderly). Generally, we would expect the percentage of units inspected to decrease as the total number of units increases. Systems which are not unit specific, such as boilers, compactors, elevators and roofs, will often have a 100 percent sample.

The overriding objective: SEE ENOUGH OF EACH UNIT TYPE AND SYSTEMTO BE ABLE TO STATE WITH CONFIDENCE THE PRESENT AND PROBABLE FUTURE CONDITON.

- *Market Issues* - In certain instances, market conditions may necessitate action on certain systems. Examples are early appliance replacement or re-carpeting, new entry paving, special plantings, and redecorated lobbies. If the owner or lender has identified such anaction, the evaluator should include a cost estimation for such action and indicate what, if any, other costs would be eliminated by such action.

- *Work In Progress* - In some instances, work may be underway (which can be observed) or under contract. When known by the lender, this will be noted. For purposes of the report, such work should be assumed to be complete, unless observed to be unacceptable in quality or scope.
- *Management-Reported Replacements* - In some instances, the Property ownership or management will provide the lender with information about prior repairs or replacements

which have been completed in recent years. The lender may provide this information to the evaluator to assist in the assessment of these components. The evaluator should include enough units, buildings, or systems in the sample to reasonably verify thereported repairs or replacements.

Systems and Conditions Forms

It is the responsibility of the evaluator to assess the condition of every system which is presentat a Property. All conditions, except as noted below, requiring action during the life of the loanmust be addressed regardless of whether the action anticipated is a capital or operating expense.

To assist evaluators in reviewing all systems at a Property, four Systems and Conditions Forms are provided. Each lists a group of systems typically related by trade and/or location. The four forms are Site, Architectural, Mechanical and Electrical, and Dwelling Units. While the forms have several columns in which information may be recorded, *in many instances only the first three columns will be completed.* If the condition of a system is acceptable, the ERL exceeds the term of the mortgage by two years, and no action is required, no other columns need to be completed.

The report is not expected to identify minor, inexpensive repairs or other maintenance items which are clearly part of the Property owner's current operating pattern and budget so long as these items appear to be taken care of on a regular basis. Examples of such minor operating items are occasional window glazing replacement and/or caulking, modest plumbing repairs, and annual boiler servicing. However, the evaluator *should* comment on such items in the report if they do not appear to be routinely addressed or are in need of immediate repair.

The report is expected to address infrequently occurring "big ticket" maintenance items, suchas exterior painting, all deferred maintenance of any kind, and repairs or replacements which normally involve significant expense or outside contracting. While the evaluator should noteany environmental hazards seen in the course of the inspection, environment-related actions, such as removal of lead-based paint, will be addressed in a separate report prepared by an environmental consultant.

Using the Systems and Conditions Forms

Purpose

The forms can be used both to record actual observations at a specific location and for an overall summary. For example, the Architectural form can be used for a specific building (orgroup or identical buildings) as well as for summarizing all information for buildings at a Property. The same is true for the Dwelling Unit form. An unlabeled form is included which can be used as a

second page for any of the Systems and Conditions Forms.

In some instances, the evaluator will note components which, while they may continue to be functional, may reduce marketability of the Property. For example, single-door refrigerators or appliances in outmoded colors may have such an impact in some properties. The evaluator should note these items, discuss them with the lender, and provide separate estimates of the cost to replace such items if requested.

Items EUL

Each of the four forms has a number of frequently-occurring systems and components listed.This list represents only the most frequently observed and is not meant to be all inclusive.

Every system present at the Property must be observed and recorded. Any system not listed on the form may be included in the spaces labeled "Other". Note that the assessment includes the systems and components in both residential and non-residential structures. Thus, garages, community buildings, management and maintenance offices, cabanas, pools, commercial space, and other non-residential buildings and areas are included.

The EUL figure which appears in parentheses after the "Item" is taken from the "Expected Useful Life Table" provided. This table provides standard useful lives of many components typically found in apartment complexes. Where the parentheses do not contain a number, it is because there are various types of similar components with differing economic lives. The evaluator should turn to the "Expected Useful Life Table" and select, and insert, the appropriate EUL number. If the EUL will; without question, far exceed the term of the mortgage plus two years, the EUL number need not be inserted.

Note: It is recognized that the "Expected Useful Life Table" represents only one possible judgment of the expected life of the various components. If we receive substantial material to the effect that one or more of the estimates are inappropriate, we will make adjustments. Until such changes are made, the Tables provide a useful and consistent standard for all evaluators touse. They avoid debate on what the appropriate expected life is and permit focus on the evaluator's judgment of the effective remaining life of the actual component in place, as discussed below.

Age

The evaluator should insert the actual Age of the component or may insert "OR" for original. If the actual age is unknown, an estimate is acceptable. If there is a range in Age (for example, components replaced over time), the evaluator may note the range (i.e., 5-7 years) or may use several lines for the same system, putting a different Age of that system on each line.

Condition

This space is provided to indicate the Condition of the component, generally excellent, good,fair, or poor, or a similar and *consistent* qualitative evaluation.

Effective Remaining Life

This space is provided for the evaluator to indicate the remaining life of the component as is.For standard components with standard maintenance, the "Expected Useful Life Table" provided by the lender could be used to determine ERL by deducting the Age from EUL. However, this should not be done automatically. A component with unusually good originalquality or exceptional maintenance could have a longer life. On the other hand, if the component has been poorly maintained or was of below standard original quality, the useful lifecould be shorter than expected. *The evaluator applies his or her professional judgment in making a determination of the* ERL.

If the ERL *is longer than the term of the loan plus two years, no deferred maintenance exists, and no action needs to be taken during the life of the loan, no other columns need to be filled out.* The only exception may be Diff? (Difference), as discussed below. This should be notedwhen the evaluator's estimate of the ERL varies by more than two years from the standard estimate.

Diff? (Difference)

The Age of the component should be deducted from the EUL in parentheses and the answer compared to the ERL estimated by the evaluator. Where there is a difference of over two years, the evaluator should insert a footnote number in the DIFF? (Difference) column and supply, in an attached list of footnotes, a brief statement of why, in his or her judgment, the ERL of the component varies from the standard estimate. This approach provides consistency among evaluators while making best of the evaluators' professional judgment.

Action

If any Action is required - immediately, over the life of the loan or within two years thereafter - the Action should be recorded as repair, replace or maintain. Repair is used when only a part of an item requires action, such as the hydraulics and/or controls of a compactor. Replace is used when the entire item is replaced. Maintain is used where special, non-routine maintenance is required, such as the sandblasting of a swimming pool. In cases where a repair or maintenance may be needed now, and replacement or further maintenance may be needed later, separate lines may be used to identify the separate actions and timing.

Now?

If the item involves a threat to the immediate health and safety of the residents, clearly affects curb appeal, will result in more serious problems if not corrected, or should otherwise be accomplished as part of an immediate repair, maintenance or replacement program, this space should be checked. Replacements which may be needed in year one, but do not require immediate attention, need not be checked.

Deferred Maintenance (DM)

The DM space is marked in any instances where current management practice is clearly inadequate and the owner's attention should be called to the item, even if no major expenditureor significant labor may be required.

Quantity

For items requiring action, the evaluator should note the "Quantity" of the system, with the

applicable unit of measure entered (each, unit, square feet, square yards, linear feet, lump sum, etc.).

Field Notes

This space, as well as attachments may be used to record the type of component (16cf, frost free, Hotpoint), the problem (valves leaking) or other information (consider replacement for marketing purposes, replace 30 percent per year, work in progress, etc.) that the evaluator will need to complete the "Evaluator's Summary".

Sample Form

The following example from the Dwelling Unit Systems and Conditions form illustrates howthis form is properly used. The example presumes an 11 story building containing 1 and 2 bedroom units. There are 100 units. The age of the building is 9 years. The term of the proposed loan is 7 years.

ITEM (EUL)	AGE	COND	ERL	DIFF?	ACTION	NOW?	DM?	QUANTITY	NOTES
Countertop/ Sinks (10)	9	EX	10+	1	-	-	-	- ea.	Corian Stainless Steel
Refrigerator (15)	9	Good	6	-	REPL	-	-	100ea	Hotpoint 16cf. ff 20%/yr @ YR 5
Disposal (5)	0-9	Good	0-5	-	REPL	-		100ea	20%/yr. @ YR 1 OPTE
Bath Fixtures (20)	9	Good	11+	-	-	-	-	-	Dated Looking Repair - Now
Ceiling 04 Stack ( )	9	Water Damage	-	-	Repair	Yes	-	10ea	Plumbing Leak

Countertop/Sinks are 9 years old. (The entry could also be "OR"). Condition isexcellent, with an ERL of 10 years. This is significantly different from the anticipated ERL of 1 (a EUL of 10 years minus an Age of 9 years). Therefore, there is a footnote entry "1" in the Diff? (Difference) column. The footnote willindicate that this item is made of an exceptionally durable material (Corian), along with a top quality stainless steel sink. The evaluator's estimate of an ERLof 10 years + is beyond the term of +2. No capital need would be reported.

Refrigerators are also original, reported as 16 cf frost free Hotpoint. Replacementis expected around the ERL, noted as 20 percent annually and beginning in the fifth year of the loan when the refrigerators are 14 years old.

Disposals range from new to original (Age = 0-9). Twenty percent per year replacements will be needed starting in year 1. The evaluator notes that disposalsappear to be replaced as part of the project's normal operations.

Bath fixtures are original, and in good condition. No replacement is expected to be required during the term +2 years. The Notes indicates that they are "datedlooking," which may prompt a

market consideration for replacement.

Ceiling is a special entry. The "04" stack of units has experienced water damage to ceiling from major plumbing leak. This is noted for repair NOW. As this apparently occurs in all 10 units in this stack and; therefore, is likely to have morethan a modest cost, this action would be reported on the Immediate Physical Needssummary form.

Evaluator's Summary Forms

Two separate forms are used to summarize the evaluator's conclusions from the Systems and Conditions Forms. One summarizes Immediate Physical Needs and the other summarizes the Physical Needs Over the Term +2 years.

Evaluator's Summary: Immediate Physical Needs

All of the items for which NOW? is checked are transferred to this form. This form provides for the listing of Items, Quantity, Unit Cost and Total Cost of each. The Item and Quantity are transferred directly from the Systems and Conditions form.

Unit Cost - This is the cost per unit (sf, ea, lf, etc.) in current dollars to implement the required action. The source of the cost estimate should be listed in a separate attachment. The sources may include a third-party estimation service (e.g., RSMeans: *Repair and Remodeling Cost Data*), actual bid or Contract prices for the property, estimates from contractors or vendors, the evaluator's own cost files, or published supplier sources.

Total Cost - This is the result of multiplying the quantity times the unit cost. It is expressed in current year dollars.

Deferred Maintenance (DM) - If the item evidence deferred maintenance, this column is checked.

Comments - the comments column, or an attachment, should clearly provide information on the location and the nature of problem being addressed for each item. The information should be adequate for the owner to begin to implement the action.

Evaluator's Summary: Physical Needs Over the Term

Those items not listed on the Immediate Physical Needs form, but for which action is anticipated during the term of the loan plus two years, are listed on the form. The item and Quantity are transferred directly from the Systems and Conditions form. The Unit Cost is calculated in the same manner as on the Immediate Physical Needs form. An attachment should be provided which gives any necessary information on the location of action items andthe problem being addressed for each item. The information should be adequate for the ownerto begin to implement

the action.

Cost by Year - the result of multiplying the quantity times the unit cost, in current dollars, is inserted in the column for the year in which the action is expected to take place. Generally, the ERL estimate provided by the evaluator on the Systems and Conditions will indicate the Action year. For example, if the evaluator has indicated that the ERL of the parking lot paving is 4 years, the cost, in current dollars, is inserted in Year 4. If the items are likely to be done over a number of years, the costs, in current dollars should be spread over the appropriate period. For example, if the ERL of the refrigerators is estimated to be 4 years, or 3-5 years, one third of the cost of replacing the refrigerators may appear in each of years 3, 4, and 5.

Total Uninflated - After inserting all of the appropriate action items, the evaluator should totalthe items for each year.

Total Inflated - The evaluator should multiply the Total Uninflated times the factor provided to produce the Total Inflated.

Total Inflated All Pages - On the last sheet, the evaluator should include the Total InflatedDollars for that page and all prior pages.

C-10

Cumulative Total All Pages - On the last sheet, the evaluator should insert the Total Inflated Dollars of that year and all prior years.

Special Repair and Replacement Requirements

While performing a Property Inspection, the evaluator must be aware that certain building materials and construction practices may cause properties to experience (or to develop in a short time period) problems that can be corrected only with major repairs or replacements. The following identifies some specific construction related problems; however, the evaluator must be aware that other construction related problems may be found in any Property and should be identified. If any of the following requirements are not met or if the evaluator determines that the following conditions (or others) are present, *the evaluator must contact the lender immediately to discuss the timing as well as the cost of the repairs or replacements.* The evaluator should ensure that any of these conditions are thoroughly addressed in the Physical Needs Assessment.

Minimum Electrical Capacity - Each apartment unit must have sufficient electrical capacity (amperage) to handle the number of electrical circuits and their use within an apartment. Therefore, the evaluator must determine, based on referencing the National Electric Code as well as local building codes, what is the minimum electrical service needed. In any event, thatservice must not be less than 60 amperes.

Electrical Circuit Overload Protection - All apartment unit circuits, as well as electrical circuits elsewhere in an apartment complex, must have circuit breakers as opposed to fuses ascircuit overload protection.

Aluminum Wiring - In all cases, where aluminum wiring runs from the panel to the outlets of a unit, the evaluator's inspection should ascertain that the aluminum wiring connections (outlets, switches, appliances, etc.) are made to receptacles rated to accept aluminum wiring or that corrective repairs can be done immediately by the owner.

Fire Retardant Treated Plywood - While performing the roof inspection, the evaluator should investigate whether there is any indication that fire-retardant treated plywood was used in the construction of the roof (primarily roof sheathing). This inspection should focus on sections of the roof that are subjected to the greatest amount of heat (e.g., areas that are not shaded or that are poorly ventilated) and; if possible, to inspect the attic for signs of deteriorating fire- retardant treated plywood or plywood that is stamped with a fire rating.

Our concern is that certain types of fire-retardant treated plywood rapidly deteriorates when exposed to excessive heat and humidity or may cause nails or other metal fasteners to corrode. Common signs of this condition include a darkening of the wood and the presence of a powder-like substance, warping of the roof and the curling of the shingles. Fire-retardant treated plywood is most likely to be in townhouse properties or other properties with pitched, shingled roofs that were constructed after 1981 and that are located in States east of the Mississippi River and some southwestern States.

Narrative Conclusion and Attachments

A complete narrative summary of the Property and its components is not required. However, the evaluator should supply a concise summary of the conclusions reached concerning the overall condition of the Property, its future prospects, and the quality of the current maintenance programs. *Any items affecting the health and safety of residents should be clearlyflagged.*

The summary should include a discussion of the sampling approach used, discussed above, and any market issues which the evaluator believes it may be appropriate to address or which were noted by the lender.

The narrative, the forms use and the attachments (footnotes explaining Differences, information regarding sources of costs, and, if necessary, information needed to identify the location and type of problem addressed in the Evaluator's Summary: Physical Needs Over the Term) shouldbe supplied.

Attachment D

CNA e-Tool Estimated Useful Life Table

This table lists the recommended average useful life of the categories of assets that should be considered in a Capital Needs Assessment. If an observed item is not listed, it should be assigned to the most closely related category. The Standard EUL for a component type is fixed. The user may estimate the Remaining Useful Life of any existing component independent of the Standard EUL by entering the assessed RUL in the appropriate space on the Components tab of the Excel Assessment Tool and by justifying the assessed RUL in the adjacent comment box. When identifying an alternative toan existing component the user may specify an EUL for the alternative which differs from the Standard EUL for that component type but must enter an explanation in the Notes space on the Alternatives tab of the Tool. Each specific component assessed is given a free-form description by the needs assessor and this description is the "component ID" or component name which may be more specific than the "Component Type", e.g (a particular kind, size, etc of refrigerator, not just any refrigerator.)

Numbering by ASTM 2018-08 Outline								
	System Description	Overall General Description	Component	Sub-Component	Component Description	Family	Elderly	3 tiers of categorization: Need Category, Need Item, Component Type
3					**System Description and Observations**			
	3.1				**Overall General Description**			
	3.2				**Site Systems**			Need Category
		3.2.1			**Topography**			
		3.2.2			**Storm Water Drainage**			Need Item
			3.2.2.1		Catch basins, inlets, culverts	50	50	All items not color coded
			3.2.2.2		Marine or stormwater bulkhead	35	35	are "Component Type"
			3.2.2.3		Earthwork, swales, drainways, erosion controls	50	50	names.
			3.2.2.4		Storm drain lines	50	50	
			3.2.2.5		Stormwater mgmt ponds	50	50	
			3.2.2.6		Fountains, pond aerators	15	15	
		3.2.3			**Access and Egress**			Need Item
			3.2.3.1		Security gate - lift arm	10	10	
			3.2.3.2		Security gate - rolling gate	15	15	
		3.2.4			**Paving, Curbing and Parking**			Need Item
			3.2.4.1		Asphalt Pavement	25	25	
			3.2.4.2		Asphalt Seal Coat	5	5	
			3.2.4.3		Concrete Pavement	50	50	
			3.2.4.4		Curbing, Asphalt	25	25	
			3.2.4.5		Curbing, Concrete	50	50	
			3.2.4.6		Parking, Gravel Surfaced	15	15	
			3.2.4.7		Permeable Paving Systems (brick, concrete pavers)	30	30	
			3.2.4.8		Striping and Marking	15	15	
			3.2.4.9		Signage, Roadway / Parking	15	15	

CNA e-Tool Estimated Useful Life Table

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Numbering by ASTM 2018-08 Outline								
	System Description	Overall General Description	Component	Sub-Component	Component Description	Family	Elderly	3 tiers of categorization: Need Category, Need Item, Component Type
			3.2.4.10		Carports, wood frame	30	30	
			3.2.4.11		Carports, metal frame	40	40	
		3.2.5			**Flatwork (walks, plazas, terraces, patios)**			Need Item
			3.2.5.1		Asphalt	25	25	
			3.2.5.2		Concrete	50	50	
			3.2.5.3		Gravel	15	15	
			3.2.5.4		Permeable Paving (brick, concrete pavers)	30	30	
		3.2.6			**Landscaping and Appurtenances**			Need Item
			3.2.6.1		Fencing, chain-link	40	40	
			3.2.6.2		Fencing, wood picket	15	20	
			3.2.6.3		Fencing, wood board (=>1"x 6")	20	25	
			3.2.6.4		Fencing, wrought Iron	60	60	
			3.2.6.5		Fencing, steel or aluminum	20	25	
			3.2.6.6		Fencing, concrete Masonry unit (CMU)	30	30	
			3.2.6.7		Fencing, PVC	15	20	
			3.2.6.8		Signage, Entrance/Monument	25	25	
			3.2.6.9		Mail Kiosk	15	20	
			3.2.6.10		Retaining Walls, heavy block (50-80 lb)	60	60	
			3.2.6.11		Retaining Walls, reinforced concrete masonry unit (CMU)	40	40	
			3.2.6.12		Retaining Walls, treated timber	25	25	
			3.2.6.13		Storage sheds	30	30	
		3.2.7			**Recreational Facilities**			Need Item
			3.2.7.1		Sport Court- asphalt	25	25	
			3.2.7.2		Sport Court- synthetic	15	20	

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			3.2.7.3		Sport Court-hardwood	50	50	
			3.2.7.4		Tot Lot (playground equipment)	10	15	
			3.2.7.5		Tot Lot- lose ground cover	3	5	
			3.2.7.6		Pool Deck	15	15	
			3.2.7.7		Pool/Spa Plastic Liner	8	8	
			3.2.7.8		Pool/Spa pumps and equipment	10	10	
			3.2.7.9		Decks-treated lumber	20	20	
			3.2.7.10		Decks-composite	50	50	
		3.2.8			**Site Utilities**			
			3.2.8.1		**Site Utilities-Water**			Need Item
				3.2.8.1.1	Water Mains/Valves	50	50	
				3.2.8.1.2	Water Tower	50	50	
				3.2.8.1.3	Irrigation System	25	25	
			3.2.8.2		**Site Utilities-Electric**			Need Item
				3.2.8.2.1	Electric distribution center	40	40	
				3.2.8.2.2	Electric distribution lines	40	40	
				3.2.8.2.3	Transformer	30	30	
				3.2.8.2.4	Emergency Generator	25	25	
				3.2.8.2.5	Solar Photovoltaic panels	15	15	
				3.2.8.2.6	Photovoltaic Inverters	10	10	
				3.2.8.2.7	Pole mounted lights	25	25	
				3.2.8.2.8	Ground lighting	10	10	
				3.2.8.2.9	Building Mounted Lighting	10	10	
				3.2.8.2.10	Building Mounted High Intensity Discharge (HID) Lighting	10	20	

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			3.2.8.3		**Site Utilities-Gas**			Need Item
				3.2.8.3.1	Gas Main	40	40	
				3.2.8.3.2	Gas Supply Lines	40	40	
				3.2.8.3.3	Site Propane, Storage & Distribution	35	35	
				3.2.8.3.4	Gas lights/fire pits	20	20	
			3.2.8.4		**Site Utilities-Sewer**			Need Item
				3.2.8.4.1	Sanitary Sewer lines	50	50	
				3.2.8.4.2	Sanitary waste treatment system	40	40	
				3.2.8.4.3	Lift Station	50	50	
			3.2.8.5		**Site Utilities-Trash**			Need Item
				3.2.8.5.1	Dumpsters	15	15	
				3.2.8.5.2	Compactors (exterior, commercial grade)	20	20	
				3.2.8.5.3	Recycling containers/equipment	15	15	
				3.2.8.5.4	Composting, organic recycling equipment	10	10	
	3.3				**Building Frame & Envelope**			Need Category
		3.3.1			**Foundation**			Need Item
			3.3.1.1		Slab, reinforced concrete	100	100	
			3.3.1.2		Slab, post tensioned	100	100	
			3.3.1.3		Continuous reinforced concrete footer and CMU stem wall	100	100	
			3.3.1.4		Piers, reinforced concrete footer and CMU pier	100	100	
			3.3.1.5		Piers, treated timber post/pole	40	40	
			3.3.1.6		Foundation Waterproofing	40	40	
			3.3.1.7		Foundation suction, drainage, groundwater, radon gas controls, pumps, sumps, equip. failure alarms	10	10	

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		3.3.2			**Building Frame**			
			3.3.2.1		**Framing System, Floors & Walls**			Need Item
				3.3.2.1.1	Wood, timbers, dimensioned lumber, laminated beams, trusses	100	100	
				3.3.2.1.2	Tie downs, clips, braces, straps, hangers, shear walls/panels	75	75	
				3.3.2.1.3	Steel, beams, trusses	100	100	
				3.3.2.1.4	Reinforced concrete	100	100	
				3.3.2.1.5	Reinforced masonry, concrete masonry units (CMUs)	100	100	
				3.3.2.1.6	Solid Masonry (obsolete)	100	100	
			3.3.2.2		**Crawl Spaces, Envelope Penetrations**			Need Item
				3.3.2.2.1	Sealed crawl space system	40	40	
				3.3.2.2.2	Vents, screens, covers	30	30	
				3.3.2.2.3	Vapor Barrier (VDR) ground or underfloor	30	30	
				3.3.2.2.4	Penetrations, caulking/sealing	15	15	
				3.3.2.2.5	Crawl space, (de)pressurization, fans, pumps, sumps, equipment failure alarms	10	10	
			3.3.2.3		**Roof Frame & Sheathing**			Need Item
				3.3.2.3.1	Wood frame and board or plywood sheathing	75	75	
				3.3.2.3.2	Tie downs, clips, braces, straps, hangers	75	75	
				3.3.2.3.3	Steel frame and sheet metal or insulated panel sheathing	100	100	
				3.3.2.3.4	Reinforced concrete deck	100	100	
			3.3.2.4		**Flashing & Moisture Protection**			Need Item
				3.3.2.4.1	Caulking and Sealing	15	15	
				3.3.2.4.2	Concrete/Masonry Sealants	10	10	
				3.3.2.4.3	Wood waterproofing and sealants	10	10	

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				3.3.2.4.4	Building wraps & moisture resistant barriers	50	50	
				3.3.2.4.5	Paints and stains, exterior	8	8	
			3.3.2.5		**Attics & Eaves**			Need Item
				3.3.2.5.1	Screened gable end or soffit Vents	30	30	
				3.3.2.5.2	Roof vents, passive	40	40	
				3.3.2.5.3	Roof Vents, powered	20	20	
			3.2.2.6		**Insulation**			Need Item
				3.3.2.6.1	Loose fill, fiber glass, cellulose, mineral wool	50	50	
				3.3.2.6.2	Batts, blankets, rolls, fiber glass or mineral wool	60	60	
				3.3.2.6.3	Rigid foam board	60	60	
				3.3.2.6.4	Sprayed foam	60	60	
			3.3.2.7		**Exterior Stairs, Rails, Balconies/Porches, Canopies**			Need Item
				3.3.2.7.1	Exterior Stairs, wood frame/stringer	30	30	
				3.3.2.7.2	Exterior Stair Tread-wood	15	15	
				3.3.2.7.3	Exterior Stairs-steel frame/stringer	40	40	
				3.3.2.7.4	Exterior Stair Tread-metal, concrete filled	20	20	
				3.3.2.7.5	Exterior Stairs, Concrete	50	50	
				3.3.2.7.6	Fire escapes, metal	50	50	
				3.3.2.7.7	Balcony/Porch, wood frame	25	25	
				3.3.2.7.8	Balcony/Porch, steel frame or concrete	40	40	
				3.3.2.7.9	Balcony/Porch, wood decking	20	20	
				3.3.2.7.10	Balcony/Porch, composite decking	50	50	
				3.3.2.7.11	Railings, wood	20	20	
				3.3.2.7.12	Railings, metal	50	50	

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				3.3.2.7.13	Railings, composite	50	50	
				3.3.2.7.14	Canopy, Concrete	50	50	
				3.3.2.7.15	Canopy, Wood/Metal	40	40	
			3.3.2.8		**Exterior Doors & Entry Systems**			Need Item
				3.3.2.8.1	Unit Entry Door, Exterior, solid wood/metal clad	25	30	
				3.3.2.8.2	Common Exterior Door, aluminum and glass	30	30	
				3.3.2.8.3	Common Exterior Door, solid wood /metal clad	25	25	
				3.3.2.8.4	Storm/Screen Doors	5	10	
				3.3.2.8.5	Sliding Glass Doors	25	30	
				3.3.2.8.6	French or Atrium Doors, wood/metal clad	25	30	
				3.3.2.8.7	Automatic Entry Doors	30	30	
				3.3.2.8.8	Commercial Entry Systems	50	50	
				3.3.2.8.9	Overhead Door	30	30	
				3.3.2.8.10	Automatic Opener, overhead door	20	20	
		3.3.3			**Façades or Curtainwall**			
			3.3.3.1		**Sidewall System**			Need Item
				3.3.3.1.1	Aluminum Siding	40	40	
				3.3.3.1.2	Vinyl Siding	25	25	
				3.3.3.1.3	Cement Board Siding	45	45	
				3.3.3.1.4	Plywood/Laminated Panels	20	20	
				3.3.3.1.5	Exterior Insulation Finishing System (EIFS)	30	30	
				3.3.3.1.6	Stucco, over wire mesh/lath	50	50	
				3.3.3.1.7	Metal/Glass Curtain Wall	40	40	
				3.3.3.1.8	Precast Concrete Panel (tilt-up)	60	60	

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				3.3.3.1.9	Brick/block veneer	60	60	
				3.3.3.1.10	Stone Veneer	50	50	
				3.3.3.1.11	Glass Block	50	50	
				3.3.3.1.12	Cedar/Redwood shakes, clapboard	50	50	
				3.3.3.1.13	Pine board, clapboard	50	50	
			3.3.3.2		**Windows**			Need Item
				3.3.3.2.1	Wood, (dbl, sgl hung, casement, awning, sliders)	35	45	
				3.3.3.2.2	Wood, fixed pane, picture	40	45	
				3.3.3.2.3	Aluminum	35	40	
				3.3.3.2.4	Vinyl	30	30	
				3.3.3.2.5	Vinyl/Alum Clad Wood	50	50	
				3.3.3.2.6	Storm/Screen Windows	7	15	
		3.3.4			**Roofing and Roof Drainage**			
			3.3.4.1		**Sloped Roofs**			Need Item
				3.3.4.1.1	Asphalt Shingle	20	20	
				3.3.4.1.2	Metal	50	50	
				3.3.4.1.3	Slate shingle	75	75	
				3.3.4.1.4	Clay/cementitious barrel tile	60	60	
				3.3.4.1.5	Wood Shingle, Cedar Shakes/Shingles	25	25	
			3.3.4.2		**Low Slope/Flat Roofs**			Need Item
				3.3.4.2.1	Low slope-Built-up Roof, with gravel finish	20	20	
				3.3.4.2.2	Low slope-Built-up Roof, no mineral or gravel finish	10	10	
				3.3.4.2.3	Low slope-Adhered rubber membrane, (EPDM)	15	15	
				3.3.4.2.4	Low slope-Thermoplastic membrane, (TPO, vinyl)	15	15	

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				3.3.4.2.5	Low slope-Rubberized/elastomeric white/cool roof	15	15	
			3.3.4.3		**Roof Drainage, Trim & Accessories**			Need Item
				3.3.4.3.1	Gutters/Downspouts, aluminum	20	20	
				3.3.4.3.2	Gutters/Downspouts, copper	50	50	
				3.3.4.3.3	Low slope-roof drains, scuppers	30	30	
				3.3.4.3.4	Soffits, Wood, Vinyl, Metal	20	20	
				3.3.4.3.5	Fascia, Wood, Vinyl	20	20	
				3.3.4.3.6	Roof Hatch	30	30	
				3.3.4.3.7	Service Door	30	30	
				3.3.4.3.8	Roof Skylight	30	30	
	3.4				**Mech.-Elect.-Plumbing**			Need Category
		3.4.1			**Plumbing**			
			3.4.1.1		**Water Supply and Waste Piping**			Need Item
				3.4.1.1.1	PVC/CPVC pipe, supply and waste	75	75	
				3.4.1.1.2	Copper/brass hard pipe, supply	75	75	
				3.4.1.1.3	Copper Tube, supply	50	50	
				3.4.1.1.4	Galvanized pipe, supply	40	40	
				3.4.1.1.5	Cast iron sanitary waste	75	75	
				3.4.1.1.6	Domestic Cold Water Pumps	20	20	
				3.4.1.1.7	Sewage Ejectors	50	50	
				3.4.1.1.8	Commercial Sump Pump	20	20	
				3.4.1.1.9	Residential Sump Pump	15	15	
				3.4.1.1.10	Water Softener/Filtration	15	15	
			3.4.1.2		**Domestic Water Heating**			Need Item

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				3.4.1.2.1	DHW circulating pumps	15	15	
				3.4.1.2.2	DHW storage tanks	15	15	
				3.4.1.2.3	Exchanger, in tank or boiler	15	15	
				3.4.1.2.4	External tankless heater, gas or electric	20	20	
				3.4.1.2.5	Solar hot water	20	20	
				3.4.1.2.6	Residential hot water heater, gas or electric	12	15	
				3.4.1.2.7	Flue, gas water heaters	35	35	
				3.4.1.2.8	Boilers, Oil Fired, Sectional	25	25	
				3.4.1.2.9	Boilers, Gas Fired, Sectional	25	25	
				3.4.1.2.10	Boilers, Oil/ Gas/ Dual Fuel, Low MBH	30	30	
				3.4.1.2.11	Boilers, Oil/ Gas/ Dual Fuel, High MBH	40	40	
				3.4.1.2.12	Boilers, Gas Fired Atmospheric	25	25	
				3.4.1.2.13	Boilers, Electric	20	20	
				3.4.1.2.14	Boiler Blowdown and Water Treatment	25	25	
				3.4.1.2.15	Boiler Room Pipe Insulation	25	25	
				3.4.1.2.16	Boiler Room Piping	50	50	
				3.4.1.2.17	Boiler Room Valves	25	25	
				3.4.1.2.18	Boiler Temperature Controls	15	15	
				3.4.1.2.19	Heat Exchanger	35	35	
			3.4.1.3		**Fixtures**			Need Item
				3.4.1.3.1	Faucets & valves	15	20	
				3.4.1.3.2	Bath tubs & sinks, cast iron	75	75	
				3.4.1.3.3	Bubs tubs & sinks, enameled or stainless steel, fiberglass	40	40	
				3.4.1.3.4	Bath tubs & sinks, porcelain	50	50	

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	System Description	Overall General Description	Component	Sub-Component	Component Description	Family	Elderly	3 tiers of categorization: Need Category, Need Item, Component Type
				3.4.1.3.5	Toilets/bidets/urinals	40	40	
				3.4.1.3.6	Flush valves	10	15	
				3.4.1.3.7	Tub/shower units or integrated assemblies	30	30	
		3.4.2			**Centralized HVAC Systems**			
			3.4.2.1		**Centralized Heating/Cooling Equipment**			Need item
				3.4.2.1.1	Boilers, Oil Fired, Sectional - Centralized	25	25	
				3.4.2.1.2	Boilers, Gas Fired, Sectional - Centralized	25	25	
				3.4.2.1.3	Boilers, Oil/ Gas/ Dual Fuel, Low MBH - Centralized	30	30	
				3.4.2.1.4	Boilers, Oil/ Gas/ Dual Fuel, High MBH - Centralized	40	40	
				3.4.2.1.5	Boilers, Gas Fired Atmospheric - Centralized	25	25	
				3.4.2.1.6	Boilers, Electric - Centralized	20	20	
				3.4.2.1.7	Boiler Blowdown and Water Treatment - Centralized	25	25	
				3.4.2.1.8	Boiler Room Pipe Insulation - Centralized	25	25	
				3.4.2.1.9	Boiler Room Piping - Centralized	50	50	
				3.4.2.1.10	Boiler Room Valves - Centralized	25	25	
				3.4.2.1.11	Boiler Temperature Controls - Centralized	15	15	
				3.4.2.1.12	Heat Exchanger - Centralized	35	35	
				3.4.2.1.13	Combustion Air, Duct with Fixed Louvers	30	30	
				3.4.2.1.14	Combustion Air, Motor Louvers and Duct	25	25	
				3.4.2.1.15	Combustion Waste Flue	40	40	
				3.4.2.1.16	Cooling tower	25	25	
				3.4.2.1.17	Chilling plant	20	20	
				3.4.2.1.18	Steam supply station	50	50	
				3.4.2.1.19	Free standing chimney	50	50	

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Numbering by ASTM 2018-08 Outline								
	System Description	Overall General Description	Component	Sub-Component	Component Description	Family	Elderly	3 tiers of categorization: Need Category, Need Item, Component Type
			3.4.2.2		**Centralized Heat/Air/Fuel Distribution**			Need Item
				3.4.2.2.1	Fuel oil/propane storage tanks	40	40	
				3.4.2.2.2	Remediate/remove abandoned tanks/fuel lines	100	100	
				3.4.2.2.3	Fuel transfer system	25	25	
				3.4.2.2.4	Gas/oil distribution lines	50	50	
				3.4.2.2.5	Gas meter	40	40	
				3.4.2.2.6	2 pipe/4 pipe hydronic distribution-above grade	50	50	
				3.4.2.2.7	2 pipe/4 pipe hydronic distribution-in ground	25	25	
				3.4.2.2.8	Hydronic/Water Circulating Pumps	20	20	
				3.4.2.2.9	Hydronic/Water Controller	20	20	
				3.4.2.2.10	Radiation-steam/hydronic (baseboard or freestanding radiator)	50	50	
				3.4.2.2.11	Fan Coil Unit, Hydronic	30	30	
				3.4.2.2.12	Central exhaust fans/blowers	20	20	
		3.4.3			**Decentralized and Split HVAC Systems**			
			3.4.3.1		**Dwelling/Common Area HVAC Equipment**			Need Item
				3.4.3.1.1	Electric heat pump, condenser, pad or rooftop	15	15	
				3.4.3.1.2	Electric AC condenser, pad or rooftop	15	15	
				3.4.3.1.3	Electric furnace/air handler	20	20	
				3.4.3.1.4	Gas furnace/air handler	20	20	
				3.4.3.1.5	Hydronic heat/electric AC air handler	25	25	
				3.4.3.1.6	Hydronic feed electric heat pump/air handler	25	25	
				3.4.3.1.7	Wall mounted electric/gas heater	25	25	
				3.4.3.1.8	Electric baseboard heater	30	30	
				3.4.3.1.9	PTAC Thruwall (packaged terminal air conditioning)	15	15	

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	System Description	Overall General Description	Component	Sub-Component	Component Description	Family	Elderly	3 tiers of categorization: Need Category, Need Item, Component Type
				3.4.3.1.10	Window or thru-wall air conditioners	10	10	
				3.4.3.1.11	Package HVAC roof top	15	15	
				3.4.3.1.12	Air filtration/humidity control devices (humidifiers, HRV's)	20	20	
				3.4.3.1.13	Duct, rigid sheet metal, insulated if not in conditioned space	35	35	
				3.4.3.1.14	Duct, flexible, insulated	20	20	
				3.4.3.1.15	Duct, sealing-mastic or UL 181A or 181B tape.	20	20	
				3.4.3.1.16	Diffusers, registers	20	20	
				3.4.3.1.17	Fireplace, masonry & firebrick, masonry chimney	75	75	
				3.4.3.1.18	Fireplace, factory assembled	35	35	
				3.4.3.1.19	Fireplace insert, stove	50	50	
				3.4.3.1.20	Chimneys, metal, and chimney covers	35	35	
			3.4.3.2		**HVAC Controls**			Need Item
				3.4.3.2.1	Dwelling/common area thermostat	15	20	
				3.4.3.2.2	Heat sensors	15	15	
				3.4.3.2.3	Outdoor temperature sensor	10	10	
		3.4.4			**Electrical**			
			3.4.4.1		**Electric Service & Metering**			Need Item
				3.4.4.1.1	Building service panel	50	50	
				3.4.4.1.2	Building meter	40	40	
				3.4.4.1.3	Tenant meters, meter panel	40	40	
			3.4.4.2		**Electrical Distribution**			Need Item
				3.4.4.2.1	Tenant electrical panel	50	50	
				3.4.4.2.2	Unit/building wiring	50	50	
			3.4.4.3		**Electric Lighting & Fixtures**			Need Item

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	System Description	Overall General Description	Component	Sub-Component	Component Description	Family	Elderly	3 tiers of categorization: Need Category, Need Item, Component Type
				3.4.4.3.1	Switches & outlets	35	35	
				3.4.4.3.2	Lighting - exterior entry	15	20	
				3.4.4.3.3	Lighting- interior common space	25	30	
				3.4.4.3.4	Lighting - Tenant Spaces	20	25	
				3.4.4.3.5	Door bells, chimes	20	25	
			3.4.4.4		**Telecommunications Equipment**			Need Item
				3.4.4.4.1	Satellite dishes/antennae	20	20	
				3.4.4.4.2	Telecom panels & controls	20	20	
				3.4.4.4.3	Telecom cabling & outlets	20	20	
	3.5				**Vertical Transportation**			Need Category
		3.5.1			**Elevators/Escalators**			Need Item
			3.5.1.1		Electrical switchgear	50	50	
			3.5.1.2		Electrical wiring	30	30	
			3.5.1.3		Elevator controller, call, dispatch, emergency	10	20	
			3.5.1.4		Elevator cab, interior finish	10	20	
			3.5.1.5		Elevator cab, frame	35	50	
			3.5.1.6		Elevator, machinery	20	30	
			3.5.1.7		Elevator, shaftway doors	10	20	
			3.5.1.8		Elevator, shaftway hoist rails, cables, traveling	20	25	
			3.5.1.9		Elevator, shaftway hydraulic piston and leveling	20	25	
			3.5.1.10		Escalators	50	50	
	3.6				**Life Safety/Fire Protection**			Need Category
		3.6.1			**Sprinklers and Standpipes**			Need Item
			3.6.1.1		Building fire suppression sprinklers, standpipes	50	50	

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			3.6.1.2		Fire pumps	20	20	
			3.6.1.3		Fire hose stations	50	50	
			3.6.1.4		Fire extinguishers	10	15	
		3.6.2			**Alarm, Security & Emergency Systems**			Need Item
			3.6.2.1		Tenant space alarm systems	10	15	
			3.6.2.2		Residential smoke detectors	5	7	
			3.6.2.3		Call station	10	15	
			3.6.2.4		Emergency/auxiliary generator	25	25	
			3.6.2.5		Emergency/auxiliary fuel storage tank	25	25	
			3.6.2.6		Emergency lights, illuminated signs	5	10	
			3.6.2.7		Smoke and fire detection system, central panel	15	15	
			3.6.2.8		Buzzer/intercom, central panel	20	20	
			3.6.2.9		Tenant buzzer / intercom /secured entry system	20	20	
		3.6.3			**Other Systems**			Need Item
			3.6.3.1		Pneumatic Lines and Controls	30	30	
			3.6.3.2		Auto-securing doors/entries/lock down	30	30	
	3.7				**Interior Elements**			
		3.7.1			**Interiors-Common Areas**			Need Category
			3.7.1.1		**Finished walls, ceilings, floors**			Need Item
				3.7.1.1.1	Drywall - Common	35	40	
				3.7.1.1.2	Plaster - Common	50	50	
				3.7.1.1.3	Paints, stains, clear finishes, interior - Common	15	20	
				3.7.1.1.4	Wallpapers - Common	15	20	
				3.7.1.1.5	Wall tile, ceramic, glass, natural stone - Common	35	50	

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				3.7.1.1.6	Floor tile, ceramic, natural stone - Common	40	50	
				3.7.1.1.7	Concrete/Masonry/Terrazzo - Common	75	75	
				3.7.1.1.8	Hardwood floor (3/4" strip or parquet) - Common	50	50	
				3.7.1.1.9	Wood floor, laminated/veneered - Common	20	25	
				3.7.1.1.10	Resilient tile or sheet floor (vinyl, linoleum) - Common	15	20	
				3.7.1.1.11	Carpet - Common	6	10	
				3.7.1.1.12	Acoustic tile/drop ceiling - Common	15	20	
			3.7.1.2		**Millwork (doors, trim, cabinets, tops)**			Need Item
				3.7.1.2.1	Interior, hollow core doors - Common	20	25	
				3.7.1.2.2	Interior doors, solid core, wood, metal clad, fire rated	30	35	
				3.7.1.2.3	Door trim - Common	20	30	
				3.7.1.2.4	Wall trim (base, chair rail, crown moldings) - Common	30	35	
				3.7.1.2.5	Passage & lock sets - Common	15	20	
				3.7.1.2.6	Bifold & sliding doors - Common	15	20	
				3.7.1.2.7	Cabinets & vanities - Common	20	25	
				3.7.1.2.8	Tops, granite, natural stone, engineered stone - Common	50	50	
				3.7.1.2.9	Tops, solid surface, stainless steel - Common	40	50	
				3.7.1.2.10	Tops, plastic laminates, wood - Common	15	25	
				3.7.1.2.11	Vanity tops, cultured marble, molded acrylic, fiber glass - Common	25	35	
			3.7.1.3		**Appliances**			Need Item
				3.7.1.3.1	Refrigerator/freezer - Common	15	15	
				3.7.1.3.2	Range, cook top, wall oven - Common	20	25	
				3.7.1.3.3	Range hood - Common	20	25	
				3.7.1.3.4	Microwave - Common	10	10	

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	System Description	Overall General Description	Component	Sub-Component	Component Description	Family	Elderly	3 tiers of categorization: Need Category, Need Item, Component Type
				3.7.1.3.5	Disposal (food waste) - Common	7	10	
				3.7.1.3.6	Compactors (interior, residential grade) - Common	7	10	
				3.7.1.3.7	Dishwasher - Common	10	15	
				3.7.1.3.8	Clothes washer/dryer - Common	10	15	
			3.7.1.4		**Specialties**			Need Item
				3.7.1.4.1	Interior Mail Facility	20	25	
				3.7.1.4.2	Common area bath accessories (towel bars, grab bars, toilet stalls, etc.)	7	12	
				3.7.1.4.3	Mirrors & medicine cabinets - Common	20	25	
				3.7.1.4.4	Closet/storage specialties, shelving - Common	20	25	
				3.7.1.4.5	Common area interior stairs	50	50	
				3.7.1.4.6	Common area railings	15	25	
				3.7.1.4.7	Bath/kitchen vent/exhaust fans - Common	15	15	
				3.7.1.4.8	Ceiling fans - Common	15	15	
				3.7.1.4.9	Window treatments, drapery rods, shades, blinds, etc. - Common	15	25	
				3.7.1.4.10	Indoor recreation and fitness equipment	10	15	
				3.7.1.4.11	Entertainment centers, theatre projection and seating	15	25	
		3.7.2			**Interiors-Dwelling Units**			Need Category
			3.7.2.1		**Finished walls, ceilings, floors**			Need Item
				3.7.2.1.1	Drywall	35	40	
				3.7.2.1.2	Plaster	50	50	
				3.7.2.1.3	Paints, stains, clear finishes, interior	10	15	
				3.7.2.1.4	Wallpapers	10	15	
				3.7.2.1.5	Wall tile, ceramic, glass, natural stone	30	40	
				3.7.2.1.6	Floor tile, ceramic, natural stone	40	50	

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				3.7.2.1.7	Concrete/Masonry/Terrazzo	75	75	
				3.7.2.1.8	Hardwood floor (3/4" strip or parquet)	50	50	
				3.7.2.1.9	Wood floor, laminated/veneered	15	20	
				3.7.2.1.10	Resilient tile or sheet floor (vinyl, linoleum)	15	20	
				3.7.2.1.11	Carpet	6	10	
				3.7.2.1.12	Acoustic tile/drop ceiling	15	20	
			3.7.2.2		**Millwork (doors, trim, cabinets, tops)**			Need Item
				3.7.2.2.1	Interior, hollow core doors	20	25	
				3.7.2.2.2	Interior doors, solid core, wood, metal clad	30	35	
				3.7.2.2.3	Door trim	20	30	
				3.7.2.2.4	Wall trim (base, chair rail, crown moldings)	25	35	
				3.7.2.2.5	Passage & lock sets	12	20	
				3.7.2.2.6	Bifold & sliding doors	12	20	
				3.7.2.2.7	Cabinets & vanities	20	25	
				3.7.2.2.8	Tops, granite, natural stone, engineered stone	50	50	
				3.7.2.2.9	Tops, solid surface, stainless steel	40	50	
				3.7.2.2.10	Tops, plastic laminates, wood	15	25	
				3.7.2.2.11	Vanity tops, cultured marble, molded acrylic, fiber glass	25	35	
			3.7.2.3		**Appliances**			Need Item
				3.7.2.3.1	Refrigerator/freezer	12	15	
				3.7.2.3.2	Range, cook top, wall oven	15	25	
				3.7.2.3.3	Range hood	15	25	
				3.7.2.3.4	Microwave	10	10	
				3.7.2.3.5	Disposal (food waste)	7	10	

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				3.7.2.3.6	Compactors (interior, residential grade)	7	10	
				3.7.2.3.7	Dishwasher	10	15	
				3.7.2.3.8	Clothes washer/dryer	10	15	
			3.7.2.4		**Specialties**			Need Item
				3.7.2.4.1	Bath accessories (towel bars, grab bars, etc.)	7	12	
				3.7.2.4.2	Mirrors & medicine cabinets	15	25	
				3.7.2.4.3	Closet/storage specialties, shelving	15	25	
				3.7.2.4.4	Interior stairs	50	50	
				3.7.2.4.5	Stair and loft railings	20	25	
				3.7.2.4.6	Bath/kitchen vent/exhaust fans	15	15	
				3.7.2.4.7	Ceiling fans	10	15	
				3.7.2.4.8	Window treatments, drapery rods, shades, blinds, etc.	10	20	
4					**Additional Considerations**			Need Category
	4.1				**Environmental Items (not elsewhere defined)**			Need Item
		4.1.1			Environmental remediation alarms	5	5	
		4.1.2			Environmental remediation pumps & equipment	5	5	
		4.1.3			Mold-treat-remediate	100	100	
		4.1.4			Pest Control/Integrated Pest Management Plan	1	1	
	4.2				**Lead based paint (LBP), asbestos**			Need Item
		4.2.1			LBP inspection	100	100	
		4.2.2			**Lead based paint abatement**			
			4.2.2.1		LBP encapsulation (abatement)	20	20	
			4.2.2.2		LBP removal	100	100	
		4.2.3			**Lead based paint interim controls**			

CNA e-Tool Estimated Useful Life Table

This table lists the recommended average useful life of the categories of assets that should be considered in a Capital Needs Assessment. If an observed item is not listed, it should be assigned to the most closely related category. The Standard EUL for a component type is fixed. The user may estimate the Remaining Useful Life of any existing component independent of the Standard EUL by entering the assessed RUL in the appropriate space on the Components tab of the Excel Assessment Tool and by justifying the assessed RUL in the adjacent comment box. When identifying an alternative toan existing component the user may specify an EUL for the alternative which differs from the Standard EUL for that component type but must enter an explanation in the Notes space on the Alternatives tab of the Tool. Each specific component assessed is given a free-form description by the needs assessor and this description is the "component ID" or component name which may be more specific than the "Component Type", e.g (a particular kind, size, etc of refrigerator, not just any refrigerator.)

Numbering by ASTM 2018-08 Outline								
	System Description	Overall General Description	Component	Sub-Component	Component Description	Family	Elderly	3 tiers of categorization: Need Category, Need Item, Component Type
			4.2.3.1		LBP hazard interim control	6	6	
			4.2.3.2		LBP Encapsulation (interim control)	6	6	
		4.2.4			**Asbestos**			
			4.2.4.1		Asbestos encapsulation (abatement)	10	10	
			4.2.4.2		Asbestos Removal	100	100	
	4.3				**Commercial Tenant Improvements**			Need Item
		4.3.1			Owner provided item(s) (specify)	5	5	
		4.3.2			Owner provided $ allowance (specify)	5	5	

Attachment E

CAPITAL NEEDS ASSESSMENT REPORT

	GENERAL NOTES:
A	Reviews of preliminary Capital Needs Assessment (CNA) reports should be based on: 1. The Statement of Work referenced in the written Agreement with the Provider. 2. Rural Development case file, such as property records and inspection reports. 3. Latest available cost data published by RSMeans. 4. Rural Development guidelines. 5. Fannie Mae guidelines.
B	The reviewer should give special attention to the line items with the highest total costs.
C	The reviewer should be careful to note whether all systems or components that should be included have indeed been included in the report.
D	If all review items are answered "YES", the Provider should be advised to finalize the CNA with no or only a few minor changes.
E	Any review items answered "NO" should be explained in writing to the Provider in sufficient detail for clarity and appropriate actions taken.
F	The final report should be reviewed to verify that any minor changes and items answered with a "NO" in the first review have been satisfactorily addressed or corrected.
G	When item "D" is completed, the CNA Reviewer should advise the appropriate Rural Development official that the CNA should be accepted as the final report.

		PRIMARY BASIS *	**YES**	**NO**
1		1		
2		1		
3		1		
4		1		
5		1		
6		1		
7		1		
8		5		
9		1		
10		2		
11		5		
12		2		
13		2		
14		5		
15		1		
16		1		

17		1		
18		2		
19		1		
		PRIMARY BASIS *	YES	NO
20		1		
21	Does the report adequately	1		
22		1		
23		1		
24		5		
25		5		
26		1		
27		3		
28		1		
29		1		
30		1		
31		5		
32		5		
33		4		
34		2		
35		2		

* see General Note "A"

Attachment F

SAMPLE CAPITAL NEEDS ASSESSMENT REVIEW REPORT

[Review of Preliminary/Final CNA Report]

Property Name and Location:

CNA Provider:

CNA Reviewer:

Date of Preliminary / Final CNA Report:

Date of Review:

Reviewer's Comments:

-
-
-

Purpose / Intended Use / Intended User of Review:

- The purpose of this CNA review assignment is to render an opinion as to the completeness, adequacy, relevance, appropriateness, and reasonableness of the workunder review relative to the requirements of Rural Development.
- The intended use of the review report is to help meet Rural Development loan underwriting requirements for permanent financing under the applicable program. The review is not intended for any other use.
- The intended user of the review is only Rural Development.

Scope of Review:

The scope of the CNA review process involved the following procedures:

- The review included a reading/analysis of the following components from the CNAreport and the additional due diligence noted. The contents from the CNA work filewere not reviewed. The components that were reviewed are:
  - Date of the Report
  - Narrative
  - Description of Improvements
  - Photographs of the Subject Property

  - Capital Needs Summary
  - Systems and Conditions Forms
  - Critical Needs Forms
  - Capital Needs over the Term Forms
- This is a desk review, and the reviewer has not inspected the subject Property.
- The reviewer has/has not confirmed data contained within the CNA report.

Review Conclusion:

In the reviewer's opinion, given the scope of the work under review:

- The subject CNA *meets/does not meet* the reporting requirements ofRural Development.
- The data *appears/does not ap*pear to be adequate and relevant.
- The CNA methods and techniques used *are/are not* appropriate.
- The analyses, opinions, and conclusions *are/are not* appropriate and reasonable.
- This is a review report on a *preliminary/final* CNA report. The *preliminary/final* CNA report is subject to review discussions between Rural Development and the CNA Recipient of the subject Property and between the CNA Recipient and the CNAProvider. The CNA Recipient is the CNA Provider's client, and only the client can instruct the CNA Provider to revise the *preliminary/final* report. To be acceptable to Rural Development, the final CNA report should address any errors or deficiencies identified in the *Reviewer's Comments* section of this review report.

CNA PROVIDER TO INSERT IN MEMO FORMAT THEIR WRITTEN REPORT AND THEN HAVE SIGNATURE PAGE BELOW FOR REVIEWER AND UNDERWRITER/LOAN OFFICIAL TO SIGN.

Signed by:

(CNA Reviewer)	(Underwriter / Loan Official)

(Please note: for the CNA Review Report of the preliminary CNA, only the CNA Reviewer needs tosign the report on behalf of Rural Development. For the CNA Review Report of the final CNA, the CNA Reviewer and the Underwriter/Loan Official must sign the report. This is to encourage discussion between the Agencies parties, so that both the CNA Reviewer and the Underwriter are involved in the process of accepting the final CNA for the Property.)

Attachment G

Capital Needs Assessment Guidance to the Reviewer

AGREEMENT TO PROVIDE CAPITAL NEEDS ASSESSMENT

	GENERAL NOTES:
A	Reviews of proposed agreements for Capital Needs Assessments (CNA) should be based on Rural Development and other Rural Development -recognized guidelines.
B	If all review items are answered "NO", the reviewer should advise the appropriate Rural Development official that the Agreement should be accepted.
C	Any review items answered with a "YES" should be explained in writing to the proposed Provider in sufficient detail for clarity and appropriate actions to be taken.
D	If all review items answered with a "YES" are satisfactorily addressed or corrected by the proposed Provider, the reviewer should advise the appropriate Rural Development official that the Agreement should be accepted.
E	If any review items answered with a "YES" cannot be satisfactorily addressed or corrected by the proposed CNA Provider, the reviewer should advise the appropriate Rural Development official that the Agreement should NOT be accepted.

	REVIEW ITEMS:	**YES**	**NO**
1	Does the proposed Agreement omit Rural Development's Addendum to CNA Contract?		
2	Does the proposed Agreement omit Rural Development's CNA Statement of Work?		
3	Is there any evidence or indication that the proposed CNA Provider has an identity of interest, as defined in 7 CFR part 3560?		
4	Is there any evidence or indication that the proposed CNA Provider is NOT trained in evaluating site and building systems, and health, safety, physical, structural, environmental and accessibility conditions?		
5	Is there any evidence or indication that the proposed CNA Provider is NOT trained in estimating costs for repairing, replacing, and improving site and building components?		
6	Is there any evidence or indication that the proposed CNA Provider is NOT experienced in providing CNAs for MFH properties that are similar to those in the Section 515 Program?		
7	Is there any evidence or indication that the proposed CNA Provider is NOT knowledgeable of site, building and accessibility codes and standards?		
8	Is there any evidence or indication that the proposed CNA Provider is debarred or suspended from participating in Federally-assisted programs?		
9	Does the proposed fee appear to be unreasonable?		

CAPITAL NEEDS ASSESSMENT REPORT

	GENERAL NOTES:
A	Reviews of preliminary Capital Needs Assessment (CNA) reports should be based on: 1. The Statement of Work referenced in the written agreement with the provider 2. Rural Development case file, such as property records and inspection reports 3. Latest available cost data published by RSMeans
B	The reviewer should give special attention to the line items with the highest total costs.
C	The reviewer should be careful to note whether all systems or components that should be included have indeed been included in the report.
D	If all review items are answered "YES", the Provider should be advised to finalize the CNA with no or only a few minor changes.
E	Any review items answered with a "NO" should be explained in writing to the Provider in sufficient detail for clarity and appropriate actions taken.
F	The final report should be reviewed to verify that any minor changes and items answered with a "NO" in the first review have been satisfactorily addressed or corrected.
G	When item "D" is completed, the CNA Reviewer should advise the appropriate Rural Development official that the CNA should be accepted as the final report.

	REVIEW ITEMS:	PRIMARY BASIS *	YES	NO
1	Is the report in the required format?	1		
2	Does the report fully describe the property?	1		
3	Are photographs provided to generally describe the property's buildings and other facilities?	1		
4	Does the report identify who performed the on-site inspection?	1		
5	Does the report identify who prepared the report?	1		
6	Was an adequate number of dwelling units inspected?	1		
7	Is the length of the study period adequate?	1		
8	Is the list of property components complete?	5		
9	Is the list divided into the appropriate major system groups?	1		
10	Are the existing property components accurately described?	2		
11	Are the expected useful lifetimes of the components reasonably accurate?	5		
12	Are the reported ages of the components reasonably accurate?	2		
13	Is the current condition of each component accurately noted?	2		
14	Are the effective remaining lifetimes of components correctly calculated?	5		
15	Are proposed corrective actions appropriately identified?	1		
16	Are critical immediate repairs appropriately identified?	1		
17	Are items being replaced with "in-kind" materials when appropriate?	1		

18	Are the component quantities reasonably accurate?	2		
19	Are photographs provided to describe deficiencies?	1		
	REVIEW ITEMS:	**PRIMARY BASIS ***	**YES**	**NO**
20	Does the report adequately address environmental hazards and other relevant environmental issues?	1		
21	Does the report adequately address accessibility issues?	1		
22	Does the report address any existing accessibility transition plans and their adequacy?	1		
23	Are photographs provided to describe existing kitchens and bathrooms in the fully accessible units?	1		
24	Are the proposed years for repair or replacement reasonable?	5		
25	Are the repair/replacement durations appropriate and reasonable?	5		
26	Are the detailed estimated repair and replacement costs calculated in current dollars?	1		
27	Are the estimated repair and replacement costs reasonable?	3		
28	Are the sources for cost data explained in the report?	1		
29	Is the projected inflation rate appropriate?	1		
30	Have the costs in current and inflated dollars been totaled for each year?	1		
31	Have the costs for each year and grand totals been correctly calculated?	5		
32	Does the data in the report narrative and summary charts match?	5		
33	Does the report exclude routine maintenance, operation, and low-cost expenses?	4		
34	Does the report include all deficiencies known to Rural Development?	2		
35	Does the report include all other relevant data or information known to Rural Development?	2		

* see General Note "A"

Authority

This solicitation is authorized pursuant to the Title V of the Housing Act of 1949 (Pub. L. 81–171), as amended, 42 U.S.C. 1471 *et seq.;* 7 CFR 3560, subpart L; 42 U.S.C. 1484; 42 U.S.C. 1486 and 42 U.S.C. 1480.

Yvonne Hsu,

Acting Administrator, Rural Housing Service.

[FR Doc. 2024–05505 Filed 3–15–24; 8:45 am]

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Part III

Department of Agriculture

Food Safety and Inspection Service

9 CFR Parts 317, 381, and 412

Voluntary Labeling of FSIS-Regulated Products With U.S.-Origin Claims; Final Rule

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Parts 317, 381, and 412

[Docket No. FSIS 2022–0015]

RIN 0583–AD87

Voluntary Labeling of FSIS-Regulated Products With U.S.-Origin Claims

AGENCY: Food Safety and Inspection Service (FSIS), U.S. Department of Agriculture (USDA).

ACTION: Final rule.

SUMMARY: FSIS is amending its regulations to define the conditions under which the labeling of meat, poultry, and egg products under mandatory inspection, as well as voluntarily inspected products, may bear voluntary label claims indicating that the product is of United States origin. As of the compliance date of this final rule, establishments will not need to include these claims on the label, but if they choose to include them, they will need to meet the requirements in this rule.

DATES:

Effective date: May 17, 2024.

Compliance date: Establishments choosing to include voluntary U.S.-origin claims on the labels of FSIS-regulated products will need to comply with the new regulatory requirements under 9 CFR 412.3 on the next uniform compliance date for new labeling regulations, January 1, 2026.

Comment date: Submit comments on the revised FSIS Guideline for Label Approval on or before May 17, 2024.

ADDRESSES: A downloadable version of the revised FSIS Guideline for Label Approval is available to view and print at *https://www.fsis.usda.gov/guidelines/2024-0001*.

FSIS invites interested persons to submit comment on the revised FSIS Guideline for Label Approval. Comments may be submitted by one of the following methods.

- *Federal eRulemaking Portal:* This website provides the ability to type short comments directly into the comment field on this web page or attach a file for lengthier comments. Go to *https://www.regulations.gov*. Follow the on-line instructions at that site for submitting comments.
- *Mail:* Send to Docket Clerk, U.S. Department of Agriculture, Food Safety and Inspection Service, 1400 Independence Avenue SW, Mailstop 3758, Washington, DC 20250–3700.

Instructions: All items submitted by mail or electronic mail must include the Agency name and docket number FSIS–2022–0015. Comments received in response to this docket will be made available for public inspection and posted without change, including any personal information, to *https://www.regulations.gov*.

Docket: For access to background documents or comments received, call (202) 720–5046 to schedule a time to visit the FSIS Docket Room at 1400 Independence Avenue SW, Washington, DC 20250–3700.

FOR FURTHER INFORMATION CONTACT: Rachel Edelstein, Assistant Administrator, Office of Policy and Program Development, by telephone at (202) 937–4272.

SUPPLEMENTARY INFORMATION:

Executive Summary

After considering the comments received on the proposed rule discussed below, FSIS is finalizing its March 13, 2023, proposal to define the conditions under which meat, poultry, and egg products, as well as voluntarily inspected products, may bear voluntary label claims indicating that the product is of United States origin (88 FR 15290).

The final rule is consistent with the proposed rule with four changes. FSIS is revising the proposed regulatory text to: (1) clarify the conditions under which voluntary U.S. State, Territory, and locality-origin label claims may be made; (2) clarify the conditions under which use of the U.S. flag, or a U.S. State or Territory flag, on such voluntary labels may be made; (3) make a few minor editorial changes to the regulatory text to improve readability and clarity; and (4) revise the regulations in 9 CFR 317.8(b)(1) and 381.129(b)(2), relating to labeling that indicates a product's geographic significance or locality, to clarify how these existing regulatory requirements align with the new requirements in 9 CFR 412.3 for the voluntary display of U.S.-origin claims.

The final rule will amend FSIS labeling regulations at 9 CFR part 317, Labeling, Marking devices, and Containers; 9 CFR part 381, Poultry Products Inspection Regulations; and 9 CFR part 412, Label Approval. Under the final rule, two specific voluntary U.S.-origin label claims, ''Product of USA'' and ''Made in the USA'' (referred to in the proposed rule as ''authorized claims'' (88 FR 15290)), will be generically approved [1] for use on single ingredient FSIS-regulated products (*i.e.,* products produced under FSIS mandatory or voluntary inspection services) derived from animals born, raised, slaughtered, and processed in the United States. The two voluntary label claims ''Product of USA'' and ''Made in the USA'' will also be generically approved for use on multi-ingredient FSIS-regulated products if: (1) All FSIS-regulated products in the multi-ingredient product are derived from animals born, raised, slaughtered, and processed in the United States; (2) all other ingredients, other than spices and flavorings, are of domestic origin; and (3) the preparation and processing steps for the multi-ingredient product have occurred in the United States.

Also consistent with the proposed rule, label claims other than ''Product of USA'' or ''Made in the USA'' that indicate that a preparation or processing step of a FSIS-regulated product is of U.S. origin (referred to in the proposed rule as ''qualified claims'' (88 FR 15290, 15291) will be generically approved for use,[2] but such claims will need to include the preparation and processing steps (including slaughter) that occurred in the United States upon which the claim is made.

Further consistent with the proposed rule, the final rule will apply to products sold in the domestic market.[3] For products exported from the United States, FSIS will continue to verify that labeling requirements for the applicable country are met, as shown in the FSIS Export Library.[4]

These final regulations ensure labels bearing these claims are not false or misleading (9 CFR 317.8(a), 381.129(b), 590.411(f)(1)). The Federal Meat Inspection Act, the Poultry Products Inspection Act, and the Egg Products Inspection Act prohibit false or misleading labeling of regulated products. The final regulatory definitions of voluntary U.S.-origin

[1] Labels that are generically approved under the FSIS regulations may be used in commerce without prior submission to the Agency for approval. Products must bear all required labeling features and comply with the Agency's labeling regulations to be eligible for generic approval (9 CFR 412.2(a)(1)). Current FSIS regulations allow all geographic and country of origin claims on labels of FSIS-regulated products to be generically approved (9 CFR 412.2(b)).

[2] On January 18, 2023, FSIS finalized a rule to allow generic approval of the labels of voluntarily inspected products (88 FR 2798). In 2020, FSIS finalized a rule to allow generic approval for egg product labels (85 FR 68640, October 29, 2020; see 9 CFR 590.412).

[3] As explained in the proposed rule (88 FR 15290, 15292), currently, when products imported into the U.S. are repackaged or otherwise reprocessed in a FSIS-inspected facility, they are deemed and treated as domestic product for labeling purposes. Therefore, such imported products will be subject to these regulatory requirements.

[4] FSIS Export Library, available at: *https://www.fsis.usda.gov/inspection/import-export/import-export-library*.

claims align the meaning of those claims with consumers' understanding of the information conveyed by those claims. This final rule enables informed purchasing decisions by providing information that is valued by consumers. This final rule will reduce the market failures associated with incorrect and misleading information.

Table of Contents

I. Background

FSIS is responsible for ensuring that meat, poultry, and egg products are safe, wholesome, and properly labeled and packaged. The Agency administers a regulatory program for meat products under the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601 *et seq.*), for poultry products under the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451 *et seq.*), and for egg products under the Egg Products Inspection Act (EPIA) (21 U.S.C. 1031 *et seq.*). FSIS also provides voluntary reimbursable inspection services under the Agricultural Marketing Act (AMA) (7 U.S.C. 1622 and 1624) for eligible products not requiring mandatory inspection under the FMIA, PPIA, and EPIA.[5]

Under the FMIA, PPIA, and EPIA, any meat, poultry, or egg product is misbranded if its labeling is false or misleading in any particular (21 U.S.C. 601(n)(1); 21 U.S.C. 453(h)(1); 21 U.S.C. 1036(b)). In particular, no product or any of its wrappers, packaging, or other containers shall bear any false or misleading marking, label, or other labeling and no statement, word, picture, design, or device which conveys any false impression or gives any false indication of origin or quality or is otherwise false or misleading shall appear in any marking or other labeling (9 CFR 317.8(a)), 381.129(b), 590.411(f)(1)). FSIS has similar authority under the AMA concerning the false or misleading labeling of products receiving voluntary inspection services (7 U.S.C. 1622(h)(1)).

On March 13, 2023, FSIS published a proposed rule to define the conditions under which the labeling of meat, poultry, and egg products, as well as voluntarily inspected products, may bear voluntary label claims indicating that the product is of United States origin (88 FR 15290). FSIS published the proposed rule because it determined that its existing labeling policy may have confused consumers about the origin of FSIS-regulated products in the U.S. marketplace (88 FR 15290, 15292*).* The proposed rule also responded to the call for a rulemaking on voluntary ''Product of USA'' labeling for meat products in President Biden's Executive Order 14036, *Promoting Competition in the American Economy* (88 FR 36987, July 14, 2021; 88 FR 15290, 15292).

As explained in the proposed rule, FSIS received three petitions from industry associations regarding the origin of meat products bearing the ''Product of USA'' label claim, each generally asserting that the Agency's current policy on U.S.-origin labeling furthers consumer confusion as to whether products with U.S.-origin claims are derived from animals born, raised, slaughtered, and processed in the United States (88 FR 15290, 15292). In June 2018, FSIS received a petition, submitted on behalf of the Organization for Competitive Markets (OCM) and the American Grassfed Association (AGA), requesting that FSIS amend its labeling policy to state that meat products may be labeled as ''Product of USA'' only if ingredients having a bearing on consumer preference, such as meat, vegetables, fruits, and dairy products, are of domestic origin. In October 2019, the United States Cattlemen's Association (USCA) submitted a petition requesting that FSIS amend its labeling policy to state that any beef product voluntarily labeled as ''Made in the USA,'' ''Product of the USA,'' ''USA Beef,'' or with similar claims, be derived from cattle that have been born, raised, and slaughtered in the United States. Both the OCM/AGA and USCA petitions asserted that FSIS' current policy is misleading to consumers. FSIS received 2,593 public comments on the OCM/AGA petition and 111 public comments on the USCA petition. A majority of comments received on both petitions supported the respective petitions. In March 2020, FSIS responded to both petitions to state the Agency's conclusion that its current labeling policy may be causing confusion in the marketplace and that FSIS had decided to initiate rulemaking to define the conditions under which the labeling of meat products would be permitted to bear voluntary U.S.-origin claims. Finally, in June 2021, the National Cattlemen's Beef Association (NCBA) submitted a petition requesting that FSIS amend its regulations to eliminate the broadly applicable ''Product of USA'' label claim but to allow for other label claims. Specifically, the petition requested that FSIS amend its regulations to state that single ingredient beef products or ground beef may be labeled as ''Processed in the USA.'' FSIS received 261 public comments on the NCBA petition, with most comments not in support of the petition. As explained in the proposed rule, the publication of the proposed rule served as the Agency's response to the issues raised by all three related petitions (88 FR 15290, 15294).

After receiving the petitions, to inform rulemaking on voluntary ''Product of USA'' labeling, FSIS conducted a comprehensive review of the Agency's current voluntary ''Product of USA'' labeling policy to help determine what the ''Product of USA'' label claim means to consumers. To gather information as part of FSIS' comprehensive review, RTI International conducted a consumer web-based survey (''RTI survey'' or ''survey'') on ''Product of USA'' labeling.[6] As explained in the proposed rule, the combined survey results show that most consumers believe that ''Product of USA'' label claims indicate that the product is derived from animals

[5] These voluntary reimbursable inspection services include activities related to export certification (9 CFR 350.3(b), 362.2(b), and 592.20(d)); products containing meat and poultry that are not under mandatory FSIS inspection (9 CFR 350.3(c) and 362.2(a)); voluntary inspection of certain non-amenable species (9 CFR part 352, subpart A and 9 CFR part 362); and voluntary inspection of rabbits (9 CFR part 354).

[6] Cates, S. et al. 2022. Analyzing Consumers' Value of ''Product of USA'' Label Claims. Contract No. GS–00F–354CA. Order No. 123–A94–21F–0188. Prepared for Andrew Pugliese. The final report and a copy of the survey itself can be found on FSIS' website at: *https://www.fsis.usda.gov/sites/default/files/media_file/documents/Product_of_USA_Consumer_Survey_Final_Report.pdf.*

born, raised, slaughtered, and processed in the United States (88 FR 15290, 15295), and that a majority of consumers believe that the current FSIS ''Product of USA'' label claim is misleading as to the actual origin of FSIS-regulated products. Further, as discussed below, most of the comments received on the proposed rule supported the proposed rule, with many individuals and domestic trade associations citing the need for accurate labeling to ensure that FSIS-regulated products labeled as ''Product of USA'' or ''Made in the USA'' are derived from animals born, raised, slaughtered, and processed in the United States.

The proposed rule's comment period closed on June 11, 2023, 90 days after its publication.[7] Based on comments received on the proposed rule, the related petitions on the topic, and the consumer survey results, FSIS has determined that its current labeling policy may be misleading consumers because it does not align with consumers' understanding of the label and that adopting the proposed definition of the voluntary ''Product of USA'' and ''Made in the USA'' label claims will more accurately reflect its commonly understood meaning that the product was derived from an animal born, raised, slaughtered, and processed in the United States.

The final rule will enhance consumer purchasing decisions and ensure that the labeling is consistent with consumers' understanding and expectations of products labeled as ''Product of USA'' and ''Made in the USA'' and not misleading.

II. Final Rule

The final rule is consistent with the proposed rule with the four following changes.

FSIS is making four changes to the proposed new regulatory text in 9 CFR 412.3. First, in response to comments, FSIS is clarifying that voluntary label claims may be used under generic approval to designate the U.S. State, Territory, or locality-origin of a FSIS-regulated product or product component, provided that such claims meet the requirements for use of corresponding voluntary U.S.-origin claims under 9 CFR 412.3. Specifically, products labeled with ''Product of . . .'' or ''Made in the . . .'' claims referring to the origin of a U.S. State, Territory, or locality will need to meet the regulatory criteria under 9 CFR 412.3(a) and (b) for these claims (*e.g.,* a meat product labeled with the claim ''Product of Montana'' must be derived from an animal born, raised, slaughtered, and processed in Montana). Label claims other than ''Product of . . .'' or ''Made in the . . .'' that refer to the U.S. State, Territory, or locality-origin component of a FSIS-regulated products' preparation and processing will need to meet the regulatory criteria under 9 CFR 412.3(c) for these claims (*e.g.,* a pork product derived from an animal born, raised, and slaughtered in a foreign country, then sliced and packaged in Oklahoma, could be labeled with the claim ''Sliced and Packaged in Oklahoma''). These requirements for U.S. State, Territory, and locality-origin claims were discussed in the proposed rule, and FSIS originally proposed to clarify this policy in Agency guidance (88 FR 15290, 15296). However, in response to comments supporting the inclusion of these claims within the scope of the proposed rule and comments asking for clarification about the use of such claims, FSIS decided that changes to the regulatory text were warranted.

Second, in response to comments requesting FSIS to clarify when display of the U.S. flag on labels of FSIS-regulated products would be considered use of a voluntary U.S.-origin claim, the Agency is clarifying that label displays of the U.S. flag, or a U.S. State or Territory flag, on products will be considered use of voluntary origin claims of the United States or the respective U.S. State or Territory. Label displays of the U.S. flag, or a U.S. State or Territory flag, are inherently claims indicating a product's origin. Therefore, requirements for such displays are logical outgrowths of the proposed requirements for the voluntary labeling of FSIS-regulated products with U.S.-origin claims.

Specifically, FSIS is revising 9 CFR 412.3 to clarify that the voluntary use of a standalone image of the U.S. flag, or a U.S. State or Territory flag, will need to meet the requirements under 9 CFR 412.3(a) and (b) for use of voluntary ''Product of . . .'' and ''Made in . . .'' claims (*e.g.,* a meat product labeled with a standalone display of the U.S. flag will need to be derived from an animal born, raised, slaughtered, and processed in the United States). The voluntary use of the U.S. flag, or a U.S. State or Territory flag, may be used to designate a specific origin of a product or component of the product's preparation and processing but the image will need to be accompanied by a description of the preparation and processing steps that occurred in the United States, or the respective U.S. State or Territory, upon which the claim is being made (*e.g.,* display of the New York State flag on a pork product with the accompanying description ''Sliced and Packaged in New York'').

Third, FSIS is making a few editorial changes to the proposed regulatory text in 9 CFR 412.3 to improve readability and clarity.

Finally, FSIS is also revising the regulations in 9 CFR 317.8(b)(1) and 381.129(b)(2), relating to labeling that indicates a product's geographic significance or locality, to clarify how these existing regulatory requirements align with the new requirements in 9 CFR 412.3 for the voluntary display of U.S.-origin claims.

As explained above, under the final rule, the two claims ''Product of USA'' and ''Made in the USA'' may be displayed on labels of FSIS-regulated single ingredient products only if the product is derived from animals born, raised, slaughtered, and processed in the United States, or in the case of a multi-ingredient product, if: (1) All FSIS-regulated products in the multi-ingredient product are derived from an animal born, raised, slaughtered, and processed in the United States; (2) all other ingredients, other than spices and flavorings, are of domestic origin; and (3) the preparation and processing steps for the multi-ingredient product have occurred in the United States. Before January 1, 2026, the compliance date for the new regulatory requirements,[8] FSIS will update its Food Standards and Labeling Policy Book [9] to remove the current ''Product of USA'' entry that allows FSIS-regulated products that are minimally processed in the United States to be labeled as ''Product of USA.''

Additionally, the final rule will allow for claims other than the two claims ''Product of USA'' and ''Made in the USA'' to be displayed on labels to indicate the U.S.-origin of a component of a product's preparation and processing. Label claims other than ''Product of USA'' or ''Made in the USA'' that indicate that a component of a FSIS-regulated product's preparation and processing is of U.S. origin will be allowed under the final rule, but such claims will need to include the preparation and processing steps that

[7] The original comment period closed on May 12, 2023. FSIS extended the comment period by 30 days in response to requests from a foreign country and a domestic trade association for additional time to determine and formulate comments on the impact of the proposed regulations. See FSIS Constituent Update, April 7, 2023, available at: *https://www.fsis.usda.gov/news-events/news-press-releases/constituent-update-april-7-2023.*

[8] See 87 FR 77707, December 20, 2022.

[9] Available at: *https://www.fsis.usda.gov/guidelines/2005-0003.*

occurred in the United States upon which the claim is made.

FSIS Labeling and AMS Mandatory COOL

This final rule will not alter or affect any other Federal statute or regulation relating to country of origin labeling requirements. For example, as explained in the proposed rule, the regulatory requirements established by this final rule will not conflict with the requirements of the USDA Agricultural Marketing Service's (AMS) Country of Origin (COOL) mandatory labeling regulations (88 FR 15290, 15296; see also 7 CFR part 60 and 65). Establishments choosing to use voluntary U.S.-origin labels on products covered by this final rule will still need to comply with applicable COOL requirements (see 9 CFR 317.8(b)(40)) for the identification of country of origin, for commodities subject to the COOL requirements.

FSIS' current labeling regulations require that a country of origin statement on the label of any meat ''covered commodity'' as defined in 7 CFR part 65, subpart A, that is to be sold by a ''retailer,'' as defined in 7 CFR 65.240, must comply with the COOL requirements in 7 CFR 65.300 and 65.400.[10] Under this final rule, any commodity that is subject to COOL mandatory country of origin labeling must continue to comply with those requirements.

Required Documentation To Support Claims

Consistent with the proposed rule, official establishments and facilities choosing to use a U.S.-origin claim on labels of FSIS-regulated products will need to maintain, and provide FSIS access to, documentation sufficient to demonstrate that the product meets the regulatory criteria for use of the claim as the regulations require for the use of all generically approved labels (88 FR 15290, 15296; see 9 CFR 412.2(a)(1)). FSIS will accept existing documentation to demonstrate compliance with the applicable regulatory requirements. An establishment or facility may maintain one or more of the following documentation types to support a claim that the product, or a component of the product's preparation and processing, is of U.S. origin under the final rule.

[10] 9 CFR 317.8(b)(40) and 9 CFR 381.129(f). FSIS notes that the Agency's proposed regulatory requirements would concern voluntary label claims displayed on FSIS-regulated products, while COOL requires mandatory country of origin disclosure in the form of a placard, sign, label, sticker, band, twist tie, pin tag, or other format to consumers of covered commodities (See 7 CFR 65.300(a) and 65.400(a)).

Regulated entities choosing to make voluntary ''Product of USA'' or ''Made in the USA'' claims under the final rule in 9 CFR 412.3(a) and (b) may have:

- A written description of the controls used in the birthing, raising, slaughter, and processing of the source animals and eggs, and for multi-ingredient products in the preparation and processing of all additional ingredients other than spices and flavorings, and of the multi-ingredient product itself, to ensure that each step complies with the regulatory criteria;
- A written description of the controls used to trace and, as necessary, segregate, from the time of birth through packaging and wholesale or retail distribution, source animals and eggs, all additional ingredients other than spices and flavorings, and resulting products that comply with the regulatory criteria from those that do not comply; or
- A signed and dated document describing how the product is prepared and processed to support that the claim is not false or misleading.

Regulated entities choosing to make voluntary U.S.-origin claims other than ''Product of USA'' and ''Made in the USA'' under the final rule in 9 CFR 412.3(c) may have:

- A written description of the controls used in each applicable preparation and processing step of source animals and eggs, all additional ingredients other than spices and flavorings, and resulting products to ensure that the U.S.-origin claim complies with the regulatory criteria. The described controls may include those used to trace and, as necessary, segregate, during each applicable preparation or processing step, source animals and eggs, all additional ingredients other than spices and flavorings, and resulting products that comply with the U.S.-origin claim from those that do not comply; or
- A signed and dated document describing how the U.S.-origin claim regarding the preparation and processing steps is not false or misleading.

The final rule does not specify the types of records and documentation that must be maintained to demonstrate compliance with the regulatory criteria (*e.g.,* bills of lading, shipping manifests, load sheets, grower records). FSIS has also updated its FSIS Guideline for Label Approval [11] on the use of voluntary U.S.-origin labels eligible for generic approval, to provide more examples of the types of documentation that official establishments and facilities may maintain to support use of the claims.

[11] Available at: *https://www.fsis.usda.gov/guidelines/2024-0001*.

Compliance Date and Transition Period

As explained in the proposed rule, FSIS generally uses a uniform compliance date for new labeling regulations (88 FR 15290, 15297). The uniform compliance date is intended to minimize the economic impact of labeling changes by providing for an orderly industry adjustment to new labeling requirements that occur between the designated dates.[12] Per the uniform compliance date schedule, establishments voluntarily using a claim subject to this rulemaking will need to comply with the new regulatory requirements by January 1, 2026 (87 FR 77707, December 20, 2022). On that date and going forward, FSIS will consider as compliant only labels bearing the voluntary claims ''Product of USA,'' ''Made in the USA,'' and other U.S.-origin claims for FSIS-regulated products that comply with the codified requirements for the use of such claims in this final rule. Establishments may choose to voluntarily change their labels to comply with the final rule before January 1, 2026, and are encouraged to do so as soon as practicable after the publication of this final rule.

III. Summary of Comments and Responses

FSIS received 3,364 comments on the proposed rule from domestic and foreign trade associations, foreign countries, meat and poultry producers, dairy and crop producers, farmers, non-profit organizations, and consumers. Most of the comments were in support of the proposed rule. Specifically, over 3,000 consumers, and most domestic producers and organizations, supported the proposed rule, with many citing the need to revise the ''Product of USA'' or ''Made in the USA'' labeling claims policy to require that FSIS-regulated products labeled as ''Product of USA'' or ''Made in the USA'' are derived from animals born, raised, slaughtered, and processed in the United States. A few comments were outside the scope of the proposed rulemaking, as they concerned labeling issues not related to U.S.-origin claims (*e.g.,* the labeling of Halal-certified products and products containing genetically modified organisms).

A summary of the relevant issues raised by commenters and the Agency's responses follows.

[12] See FSIS *Uniform Date for Food Labeling Regulations Final Rule* (69 FR 74405, December 14, 2004).

A. ''Product of USA'' and ''Made in the USA'' Claims

Comment: One domestic trade association stated that the proposed rule is overly prescriptive and asked FSIS to consider establishing acceptable U.S.-origin label claim criteria through guidance.

Response: FSIS disagrees that the rule is overly prescriptive. Establishments are not required to use ''Product of USA'' or ''Made in the USA'' label claims. In addition, if the product does not meet the criteria for these claims, the final rule allows for other claims that describe the specific preparation and processing steps that occurred in the United States (9 CFR 412.3(c)). The Agency is taking this regulatory action to address consumer confusion surrounding current voluntary U.S.-origin label claims on FSIS-regulated products in the U.S. marketplace. As explained in the proposed rule, consumer survey results, reviews of consumer research, and comments received on related petitions indicated that the Agency's current ''Product of USA'' labeling policy is misleading to consumers (88 FR 15290). The fact that most comments received on the proposed rule supported the proposed voluntary U.S.-origin label claim requirements further demonstrates the need to amend the FSIS regulations to define the conditions under which the labeling of meat, poultry, and egg products, as well as voluntarily inspected products, may bear voluntary label claims indicating that the product is of U.S. origin.

Comment: One foreign trade association stated that the Agency failed to consider alternative criteria for the ''Product of USA'' or ''Made in the USA'' claims, such as a less rigorous requirement that the animal is only ''raised and slaughtered in the United States.'' This commenter stated that FSIS should withdraw the proposed rule or solicit additional comments to reconsider alternative criteria for the ''Product of USA'' and ''Made in the USA'' label claims. One foreign country stated that the RTI survey did not include consideration of alternative options to the proposed label claims. One domestic trade association stated that the proposed label claims should be replaced with a label claim such as ''Processed in the USA'' that would be more accurate and verifiable.

Response: The commenters incorrectly stated that FSIS failed to consider alternative criteria for the ''Product of USA'' and ''Made in the USA'' label claims, or that the RTI survey did not include consideration of alternative options for the label claims. FSIS reviewed alternative criteria for the claims. That review has led FSIS to establish the various options for label claims other than ''Product of USA'' and ''Made in the USA'' on single ingredient and multi-ingredient products. These other options allow for various claims regarding the U.S.-origin of FSIS-regulated products.

Further, as explained in the proposed rule, the RTI survey included questions that surveyed consumers' understanding of the meaning of the ''Product of USA'' label claim by showing participants possible definitions of the claim with various combinations of ''born,'' ''raised,'' ''slaughtered,'' and ''processed'' (88 FR 15290, 15295). The survey also included questions about consumers' willingness to pay for products bearing ''Product of USA'' label claims with different definitions on the spectrum of ''born,'' ''raised,'' ''slaughtered,'' and ''processed'' in the United States. The combined survey results show that most consumers believe that ''Product of USA'' label claims indicate that the product is derived from animals born, raised, slaughtered, and processed in the United States. This survey shows that a majority of consumers do not understand the current FSIS ''Product of USA'' label claim and that it is misleading to a majority of consumers as to the actual origin of FSIS-regulated products. These survey results informed the Agency's decision-making process for developing the proposed rule. FSIS considered other options but proposed the requirements that most closely reflected the meaning of the ''Product of USA'' and ''Made in USA'' claims based on the survey, the relevant petitions, and the comments received on those petitions. For these reasons, FSIS disagrees that the Agency should withdraw the proposed rule or replace the requirements for the voluntary ''Product of USA'' and ''Made in the USA'' claims.

Comment: A few domestic and foreign trade associations stated that the doctrine of substantial transformation should be the standard for determining a product's country of origin for ''Product of USA'' or ''Made in the USA'' claims, rather than the ''born, raised, processed, and slaughtered'' criteria. According to these commenters, under the substantial transformation doctrine, the origin of FSIS-regulated meat products would be the country of the animal's slaughter. One domestic trade association stated that products made from animals that were substantially transformed in the United States, such as through slaughter, should be eligible for the label claim ''Processed in the USA,'' which would be consistent with other regulatory standards. Another domestic trade association stated that the proposed rule should be revised to allow for the use of ''Product of USA'' or ''Made in the USA'' claims on any product derived from an animal that lived more than 95 percent of its life in the United States and is slaughtered, processed, and packaged in United States.

Response: As explained in the proposed rule, the Agency's consumer survey results show that most consumers believe the ''Product of USA'' label claim means the product was derived from animals born, raised, slaughtered, and processed in the United States (88 FR 15290, 15295). Most of the comments received on the proposed rule also supported the ''born, raised, processed, and slaughtered'' proposed definition for these claims. Based on these survey results and comments, the petition on this topic, and the comments received on those petitions, FSIS has determined that consumers believe that these claims mean that the product was derived from animals born, raised, slaughtered, and processed in the United States. Adding additional criteria for these claims, as suggested by the commenters, would continue to mislead consumers.

Comment: One domestic trade association stated that products made from offspring animals that were born, raised, and slaughtered in the United States should be eligible for ''Product of USA'' or ''Made in the USA'' claims, even if the parent animals were imported.

Response: FSIS agrees. Products made from an animal that was born, raised, slaughtered, and processed in the United States will be eligible for these claims, provided they meet any other applicable criteria. The country in which the parent animal of the animal was born, raised, slaughtered, or processed will not be relevant to a product's eligibility to bear these claims.

Comment: A few domestic and foreign trade associations and one foreign country requested clarification on whether, under the proposed criteria for ''Product of USA'' or ''Made in the USA'' claims, eggs produced in the United States from imported poultry would meet the requirement of ''born'' in the United States.

Response: Under the final rule, ''born'' in the case of a poultry species is ''hatched from the egg'' and in the case of an egg product is ''broken from the egg.'' Therefore, poultry hatched or eggs broken in the United States from either domestic or imported parents will

meet the requirement for these claims that the animal was ''born'' in the United States.

Comment: Several domestic trade associations and one foreign country opposed the proposed ''born (*i.e.,* hatched), raised, slaughtered, and processed'' requirement for use of ''Product of USA'' or ''Made in the USA'' claims on poultry products. One domestic trade association and one foreign country stated that the requirement would affect the widespread industry practice of shipping day-old chicks from Canada and other countries into the United States for the purpose of raising, slaughtering, and processing the animals to produce poultry products for the U.S. market. One domestic trade association recommended that the proposed rule allow these claims to be used on a product derived from a chicken or turkey raised from a poult shipped into the United States fewer than 48 hours after hatching, provided the animal lives the reminder of its life in the United States and is slaughtered, processed, and packaged domestically.

Response: FSIS disagrees that poultry products should be excluded from the ''born (*i.e.,* hatched)'' requirement for use of these claims. Establishing consistent requirements for the use of U.S.-origin label claims across all FSIS-regulated products will further the final rule's purpose to provide consumers with accurate label information and thus ensure labels are not misleading consumers in the marketplace. Under the final rule, establishments may choose to use an origin claim other than ''Product of USA'' or ''Made in the USA'' on the labels of poultry products to indicate the preparation and processing steps that occurred in the United States upon which the claim is made, such as ''Made from turkey slaughtered and processed in the United States'' (9 CFR 412.3(c)).

Comment: One domestic trade association stated that poultry production practices, such as the shipping of day-old chicks, were not significantly considered in developing the proposed ''born, raised, slaughtered, and processed'' criteria for voluntary ''Product of USA'' and ''Made in the USA'' label claims. The commenter noted that the RTI survey did not include examples of poultry products and that none of the petitions explained in the proposed rule asserted that consumers are confused about ''Product of USA'' label claims on poultry products.

Response: FSIS is establishing requirements for the use of voluntary U.S.-origin label claims on all FSIS-regulated products in order to maintain consistent labeling requirements for all products under the Agency's jurisdiction and to address consumer confusion about its current ''Product of USA'' labeling policy. The rule addresses the prohibition of claims that have been shown to be misleading. FSIS acknowledges that poultry products were not included in the RTI survey that support the conclusion that current claims can be misleading. However, FSIS disagrees that the findings of the RTI survey are not applicable to poultry products because they were not included as product examples in the survey questions. It would be impractical for the survey to include all product types within FSIS' regulatory jurisdiction. While the RTI survey only looked directly at a subset of beef and pork products, there is no reason to conclude that the product claims examined in that study were any less misleading when applied to chicken than they are when applied to beef. Finally, FSIS notes that the proposed rule clearly stated that these criteria would apply to poultry products (88 FR 15290). FSIS received over 1,000 comments from consumers who specifically supported the inclusion of poultry products in the proposed rule, demonstrating the need to provide consistent regulatory definitions of voluntary U.S.-origin claims for all products, including poultry products, under FSIS mandatory inspection and voluntary inspection services.

B. U.S.-Origin Claims Other Than ''Product of USA'' and ''Made in the USA''

Comment: Several domestic trade associations opposed the proposed criteria for FSIS-regulated products to be eligible to bear U.S.-origin claims other than ''Product of USA'' or ''Made in the USA,'' stating that the criteria would be too complex for industry to use the claims.

Response: FSIS disagrees that the criteria for U.S.-origin claims other than ''Product of USA'' and ''Made in the USA'' are too complex. Official establishments and facilities that label FSIS-regulated products with these claims may choose to use the label claims but are not required to do so. The final rule allows for U.S.-origin label claims other than ''Product of USA'' or ''Made in the USA,'' provided that the label claims include a description to indicate which preparation and processing steps occurred in the United States (9 CFR 412.3(c)). This description will provide consumers meaningful information about the U.S.-origin components of the product's preparation and processing. Currently, these types of voluntary U.S.-origin label claims are used on FSIS-regulated products in the U.S. retail market, which shows that they are not too complex for interested official establishments and facilities. FSIS has updated its generic labeling guidance to provide specific examples of descriptions that will provide meaningful consumer information (*e.g.,* the specific description ''Sliced and Packaged in the United States,'' rather than the generalized descriptions ''Processed in the United States'' or ''Manufactured in the United States''). The updated guidance is available on the FSIS website at: *https://www.fsis.usda.gov/guidelines/2024-0001.*

Comment: One consumer advocacy organization stated that label claims other than ''Product of USA'' or ''Made in the USA'' on products derived from animals not born in the United States would undermine the purpose of the proposed rule to provide consumers accurate information about the origin of FSIS-regulated products. To mitigate this risk, the commenter stated that FSIS should establish comprehensive requirements for these label claims that concern all label components, such as wording, placement, size, color, and readability, which could cause the consumer to be confused or uncertain concerning whether a product originated from an animal born, raised, slaughtered, and processed in the United States.

Response: The provisions for all voluntary label claims under this rule will ensure that labels of FSIS-regulated products do not mislead or confuse consumers about the origin of the product. First, as with all labeling of FSIS-regulated products, U.S.-origin claims other than ''Product of USA'' or ''Made in the USA'' must be truthful and not misleading. These other U.S.-origin label claims also will include a description of which preparation and processing steps occurred in the United States (88 FR 15290, 15306). Further, labels bearing the claims under this rule will be subject to routine FSIS Inspection Program Personnel (IPP) verification activities at establishments and facilities to verify that the generically approved labels are truthful and not misleading and comply with labeling requirements, including font size, placement, and other wording requirements under 9 CFR 317.2, 381.116, and 590.411.

Comment: A few domestic trade associations stated that the proposed requirement for voluntary U.S.-origin claims other than ''Product of USA'' and

''Made in the USA'' to include a ''description on the package'' of how the product compares to the regulatory criteria for the ''Product of USA'' and ''Made in the USA'' claims should apply only to retail labels. One commenter asked the Agency to clarify its definition of ''package'' for the purposes of this U.S.-origin label claim requirement.

Response: The description requirement for the use of voluntary U.S.-origin label claims other than ''Product of USA'' and ''Made in the USA'' will apply to the ''immediate container'' (*i.e.,* the package seen by the end user; see 9 CFR 317.1(a), 381.1, and 590.5). For clarity, FSIS has made an editorial revision to the proposed regulatory text in 9 CFR 412.3(c) to remove the ''package'' reference and to more simply state that these other voluntary U.S.-origin claims must include a description of the preparation and processing steps that occurred in the United States upon which the claim is being made.

Comment: One domestic trade association stated that products bearing U.S.-origin label claims other than ''Product of USA'' and ''Made in the USA'' should be required to include a description specifying the countries where the same production steps included in ''Product of USA'' or ''Made in the USA'' claim criteria occurred (*i.e.,* where the animal from which the product was derived was born, raised, slaughtered, and processed). The commenter also stated that all U.S.-origin label claims other than ''Product of USA'' and ''Made in the USA'' should indicate the country of origin of the product itself, not the country in which ancillary preparation or processing steps occurred. The commenter stated that preparation and processing, such as slicing and packaging, are not actual ''components'' of products. Rather, they are only features or applications applied to the products.

Response: FSIS disagrees that products bearing U.S.-origin label claims other than ''Product of USA'' and ''Made in the USA'' should be required to specify all the countries in which the originating animal was born, raised, slaughtered, and processed. The final rule will require that these U.S.-origin label claims on FSIS-regulated products include a description of the preparation and processing steps that occurred in the United States upon which the claim is made. Such preparation and processing steps may include ''born,'' ''raised,'' or ''slaughtered.'' However, they may also include other steps, such as ''sliced'' or ''packaged.'' This description requirement will ensure that consumers are provided meaningful, accurate information about the U.S.-origin of the product or of the product's preparation and processing. However, FSIS is not requiring that other country of origin information be included on the product. FSIS notes that some products under FSIS mandatory inspection or receiving voluntary inspection services may need to meet AMS COOL requirements at retail.

Comment: A few trade associations asked whether, under the proposed rule, the Agency would retain the foreign country-origin designation of imported meat products on U.S.-origin claims other than ''Product of USA'' or ''Made in the USA'' by requiring the label display of the actual country from which the imported beef was sourced, not only a generic reference to ''Imported.''

Response: As explained in the proposed rule, currently, when meat, poultry, and egg products imported into the U.S. are repackaged or otherwise processed in a FSIS-inspected facility, they are deemed and treated as domestic product for both mandatory and voluntary labeling purposes (21 U.S.C. 620 and 466, 88 FR 15290 and 15292). Under the final rule, while imported products cannot bear a ''Product of USA'' or ''Made in the USA'' label claim, official establishments and facilities will have the option to use another claim (qualified claim). The final rule will not change the requirement under the regulations that the immediate container of imported meat, poultry, and egg products must bear the name of the country of origin, preceded by the words ''Product of'' (9 CFR 327.14, 381.205, and 590.950). Further, products imported to the United States that are misbranded will continue to be eligible to be relabeled with an approved label under the supervision of FSIS personnel (9 CFR 327.13(a)(4), 381.129(b)(6)(iv)(A), and 590.956).

C. Multi-Ingredient Products

Comment: A few domestic trade associations stated that multi-ingredient products should be excluded from the scope of products subject to the proposed rule. One commenter specifically stated that FSIS failed to consult with the U.S. Food and Drug Administration (FDA) on the proposed rule and that the proposed requirements would likely lead to confusion regarding multi-ingredient products with ''Product of USA'' or ''Made in the USA'' claims, as consumers would assume all food products are held to the same standard for the label claim.

Additionally, a few domestic and foreign trade associations and one foreign country opposed the proposed criterion for multi-ingredient products bearing a ''Product of USA'' or ''Made in the USA'' label claim that all additional ingredients, other than spices and flavorings, are of domestic origin. One domestic trade association argued that the proposed ''domestic origin'' criterion for ''all other ingredients'' would cause companies seeking to use these claims on multi-ingredient products to source domestic ingredients even if the price is uncompetitive, resulting in increased cost for industry, and increased prices for consumers. The foreign country noted that the scope of the RTI survey did not include multi-ingredient products. Therefore, the commenter argued, it is uncertain whether consumers expect virtually all ingredients in a multi-ingredient product bearing a ''Product of USA'' label claim to be of U.S. origin.

Response: FSIS disagrees that multi-ingredient products should be excluded from the scope of the final rule. Under the Agency's authorizing statutes, multi-ingredient products containing meat, poultry, and egg products are within FSIS' jurisdiction and by statute, FSIS is required to ensure that such products are safe, wholesome, and properly labeled and packaged (21 U.S.C. 601 *et seq.,* 21 U.S.C. 451 *et seq.,* and 21 U.S.C. 1031 *et seq.*) FSIS is defining the conditions under which both single ingredient and multi-ingredient products may bear voluntary U.S.-origin claims to maintain consistent labeling requirements across all FSIS-regulated products. As explained in the proposed rule, this consistency will benefit consumers by aligning the meaning of U.S.-origin label claims with consumer expectations. Consumers also provided comments in support of the changes in the proposed rule (88 FR 15290, 15291). Additionally, the fact that FSIS received over 3,000 comments from other consumers who generally supported the proposed rule further demonstrates the need to provide consistent regulatory definitions of voluntary U.S.-origin claims for all products under FSIS mandatory inspection and voluntary inspection services.

FSIS also disagrees that the Agency should establish alternative criteria for the use of voluntary ''Product of USA'' and ''Made in the USA'' label claims on multi-ingredient products. The requirement that all additional (*i.e.,* not under FSIS mandatory inspection or voluntary inspection services) ingredients other than spices and flavorings must be of domestic origin will ensure that the labels do not mislead or confuse consumers about the origin of the products. This ''virtually

all'' domestic origin ingredients requirement aligns with the 2021 U.S. Federal Trade Commission (FTC) final rule related to ''Made in USA'' and similar U.S.-origin label claims (86 FR 37022, July 14, 2021). The FTC rule requires, in part, that ''all or virtually all'' of a product's ingredients or components must be made and sourced in the United States for the product to bear ''Made in the USA'' and similar claims.[13] FSIS also notes that FDA reviewed FSIS' proposed rule prior to publication as part of the standard interagency review process. While FSIS is not revising the proposed criteria for the use of voluntary ''Product of USA'' and ''Made in the USA'' label claims, the Agency has made a few minor editorial changes to the regulatory text at 9 CFR 412.3(b) to improve readability and clarity.

Further, FSIS disagrees that the findings of the RTI survey are not applicable to multi-ingredient products because they were not included as product examples in the survey questions. As noted above, it would be impractical for the survey to include all product types within FSIS' regulatory jurisdiction. As also noted above, one goal of the survey was to understand the ranking of consumer preferences for label claims, and this information is relevant to all FSIS-regulated products.

Finally, regarding one commenter's concern about costs associated with the domestic sourcing requirements for ''Product of USA'' and ''Made in the USA'' label claims on multi-ingredient products, FSIS notes that the U.S.-origin label claims covered by the final rule are voluntary. Official establishments and facilities can choose to use another U.S.-origin label claim (qualified claim), or no claim, should they decide that meeting the requirements for the ''Product of USA'' and ''Made in the USA'' claims is not desirable or cost effective for a particular multi-ingredient product.

Comment: A few domestic trade associations specifically stated that FSIS should expand the proposed ''spices and flavorings'' exception to the domestic sourcing requirement for multi-ingredient products bearing ''Product of USA'' or ''Made in the USA'' label claims. However, the commenters did not provide consistent suggestions for an alternative exception. One commenter stated that FSIS should expand the exception to other minor ingredients that do not materially affect whether consumers expect the product to be of U.S. origin. One commenter stated that the domestic sourcing requirement should apply only to major characterizing ingredients. One commenter asked whether the Agency would exempt enzymes from the domestic sourcing requirement. One commenter stated that any ingredients added for technical or functional reasons should be excluded from the domestic sourcing requirement. One commenter stated that only a majority of non-FSIS regulated ingredients should be required to be domestically sourced. Finally, one commenter stated that certain ingredients, such as phosphates, may not be considered ''spices or flavorings'' but are used in very small amounts, are necessary for food safety and functionality, and would be overly burdensome to include in the domestic sourcing requirement.

Response: FSIS disagrees that the ''spices and flavorings'' exception should be expanded for multi-ingredient products that bear voluntary ''Product of USA'' or ''Made in the USA'' claims. As stated above, FSIS is taking this regulatory action to address consumer confusion about the Agency's current ''Product of USA'' labeling policy. FSIS' review of the policy has shown that the current ''Product of USA'' label claim is misleading to a majority of consumers because consumers believe the ''Product of USA'' claim means the product was made from animals born, raised, and slaughtered, and the meat, poultry, or egg product then processed, in the United States. Also as stated above, several consumer comments indicated belief that the ''Product of USA'' label should cover requirements on multi-ingredient products and without those requirements the label would remain misleading. Furthermore, the majority of commenters have supported the proposed rule overall, which includes support for the proposed criteria for multi-ingredient U.S. origin labels. Therefore, FSIS has determined the limited ''spices and flavorings'' exception for multi-ingredient products bearing ''Product of USA'' or ''Made in the USA'' labels will provide consumers clear, accurate information.

D. Trade Concerns

Comment: Several foreign countries and foreign and domestic trade associations stated that the proposed rule would disrupt market integration between U.S. border states and Mexico or Canada.

One foreign country and one foreign trade association stated that both U.S. and foreign livestock sectors would be detrimentally affected by the proposed rule, similar to the effects that were seen as a result of mandatory AMS COOL requirements. The commenters stated that the proposed rule could lead to shifting existing supply chains away from Canadian inputs. The foreign country further stated that the proposed rule would substantially harm small and medium sized processors in U.S. border states that either regularly or in emergencies rely on Canadian imports. The foreign country argued the U.S. border states would now need to rely upon U.S. products and animal flows farther away than closer Canadian ones. The foreign country stated that by disrupting the integrated supply chain, the proposed rule did not support shared sustainability or food security goals. The foreign country stated that the proposed rule did not adequately explore alternative options and noted that alternative options are available to support improved accuracy for consumers but without posing a risk to U.S.-Canada supply chains.

Another foreign country stated that the proposed rule would disadvantage Mexican industry because U.S. meat products derived from imported Mexican cattle would no longer be eligible for ''Product of USA'' labeling, even if the cattle had spent most of their lives in the United States. The commenter stated that this would affect the export of live cattle to the United States. The foreign country stated that this disruption would include not only cattle and actual meat products, but also the grain Mexican ranchers import to feed cattle. The commenter alleged that the claims other than ''Product of USA'' and ''Made in the USA'' available for product derived from imported Mexican cattle require detailed description of the product, which would impose additional costs and could have an impact on the conditions of competition of similar Mexican products with respect to U.S. products. The foreign country stated that once a major stakeholder adopts the voluntary label claim in its operational strategy, other stakeholders will be compelled by commercial-retail dynamics to follow suit, making the labeling ''de facto'' mandatory.

Response: The final rule does not establish any mandatory country of origin labeling requirements. Producers are not required to make these claims. If certain products no longer qualify for a ''Product of USA'' or ''Made in the USA'' claim, producers can choose to use other U.S.-origin claims or not to

[13] The FTC final rule does not apply to FSIS-regulated products. In the final rule preamble, the FTC noted FSIS' authority to regulate labels on meat products sold at retail pursuant to the FMIA, as well as the Agency's plans to initiate rulemaking to address potential marketplace confusion concerning products of purported U.S. origin (86 FR 37022, 37029).

make any type of U.S.-origin claim. Therefore, analogies to AMS' mandatory COOL requirements and its alleged economic effects are inapposite. In addition, the rule does not affect or cover animal feed requirements.

To address concerns on the impact to small businesses including processors, FSIS updated the Regulatory Flexibility Act Assessment with an analysis comparing the final rule's estimated cost for small businesses using U.S.-origin claims to the average revenue for small businesses in the industry. FSIS estimates that the final rule will not have a significant economic impact on small businesses. The final rule's estimated cost per small business represents 0.005 percent to 0.01 percent of a small business' average revenue (please see the Regulatory Flexibility Act Assessment section).

FSIS also notes that, as stated above, the Agency reviewed alternative criteria for the voluntary U.S.-origin claims, which led FSIS to propose the various options for label claims other than ''Product of USA'' and ''Made in the USA'' on single ingredient and multi-ingredient products. These other options allow for various claims regarding the U.S. origin of FSIS-regulated products.

Furthermore, notwithstanding that the U.S.-origin claims will be voluntary, any assertion about the market impact of the final rule or that ''Product of USA'' or ''Made in the USA'' claims will become *de facto* commercially mandatory is speculative. As explained in the proposed rule, the Agency's research on meat, poultry, and egg product labels in the U.S. retail market as of July 2022 found that approximately 12 percent included a U.S.-origin claim (88 FR 15290, 15298).[14] Therefore, as the significant majority of FSIS-regulated products currently do not bear U.S.-origin label claims, the market effects of the final rule's voluntary labeling requirements are not expected to have a significant impact.

Comment: Several domestic trade associations that supported the proposed rule stated that FSIS should ensure that any final regulatory requirements are consistent with international trade agreements, such as the World Trade Organization (WTO) obligations and agreements among the United States, Canada, and Mexico. A few of these commenters stated that the Agency should avoid any potential resulting trade retaliation risk from trading partners.

Several foreign countries and foreign and domestic trade associations that opposed the proposed rule stated similar concerns about potential retaliatory tariffs by Canada and Mexico. A few of these commenters stated that the similarity of the proposed rule to the mandatory COOL requirements would pose too great a risk for retaliatory actions. One domestic trade association argued that resulting retaliatory actions could be worse than those under mandatory COOL because of the greater number of industries and meat products affected.

Several foreign countries and domestic and foreign trade associations specifically stated that the proposed rule could be considered a technical barrier to trade. A few of these commenters further stated that the proposed rule could lead to discrimination against imported production, inconsistent with the United States' obligations under the WTO Technical Barriers to Trade Agreement (TBT) and the United States-Mexico-Canada Agreement (USMCA) Chapter 11 on TBT, as well as Article III:4 of the General Agreement on Tariffs and Trade (GATT). One foreign country noted the proposed rule could be more trade-restrictive than necessary.

Response: The final rule is consistent with the United States' trade obligations. As FSIS has explained above and in the proposed rule, the ''born, raised, slaughtered, and processed'' requirement for the use of the claims ''Product of USA'' and ''Made in the USA'' will ensure such labels convey accurate U.S.-origin information and prevent consumer confusion in the marketplace (88 FR 15290, 15301). Unlike mandatory COOL, the ''Product of USA'' and ''Made in the USA'' label claims in this final rule are voluntary. Additionally, this final rule provides establishments with the option to make U.S.-origin claims other than ''Product of USA'' or ''Made in the USA'' (qualified claims). Imported products are not subject to less favorable treatment than domestic products under the final rule. All FSIS-regulated domestic products will be subject to the same requirement that labels must be truthful and not false or misleading, consistent with U.S. statutes and FSIS regulations.

Comment: One foreign country stated that the proposed rule would affect the tariff schedule regarding certain animals or products imported to the U.S. market. The commenter stated that the transformation that occurs from live cattle to a beef product clearly fulfills the definition of the United States International Trade Administration regarding ''substantial transformation'' to determine the origin of a good. The commenter stated that, therefore, in the case of Mexican cattle imported by the United States, the transformation includes a clear tariff shift. The commenter further noted that, for countries with which the United States has Free Trade Areas (FTAs), there is a transformation of the origin of the good based upon the FTA. Finally, the commenter stated that the proposed rule has the potential to affect ongoing regional and international efforts including, among others, equivalency recognition, mitigation and eradication of pests and diseases, and regulation harmonization.

Response: The commenter's concerns regarding tariff schedules are outside the scope of this regulatory action. This final rule establishes requirements for the voluntary labeling of FSIS-regulated products bearing U.S.-origin claims. Issues related to rules of origin under other regulatory standards or international agreements are not applicable. Furthermore, the commenter's concern about potential effects on regional and international efforts is speculative. All FSIS-regulated domestic products will be subject to the same requirement that labels must be truthful and not false or misleading, consistent with U.S. statutes and FSIS regulations.

Comment: One foreign country requested that FSIS pause and reconsider the proposed rule to allow for consultations between officials from the United States and the foreign country to ensure fulsome technical exchange on the rule, and its implications.

Response: FSIS undertook a transparent and robust proposed rulemaking process, and FSIS considered comments from all interested parties, including trading partners.

E. Exported Products

Comment: A few domestic trade associations asked FSIS to clarify that exported products would be exempt from the requirements of the proposed rule. One commenter requested clarification on whether companies would still be eligible to export beef, should they choose not to use a voluntary U.S.-origin label claim. The commenter also requested clarification on whether implementation of the proposed rule would require the

[14] As explained in the proposed rule, the analysis identified two types of U.S.-origin claims: (1) Authorized claims, *i.e.,* ''Product of USA'' or ''Made in the USA''; and (2) Qualified claims, *e.g.,* ''Raised and Slaughtered in the USA.'' Some of these labels with claims described above are also subject to COOL regulations regarding mandatory labeling depending on the commodity type (88 FR 15290, 15298).

creation of new export verification programs.

Response: As explained in the proposed rule, the regulatory requirements for voluntary U.S.-origin label claims will not apply to products intended for export from the United States (88 FR 15290). Additional export requirements maintained by foreign countries that have been officially communicated to FSIS by the importing country can be accessed in the FSIS Export Library.[15] FSIS will continue to conduct export certification activities for FSIS-regulated products intended for export to foreign countries.[16] During this process, IPP verify that such products meet country-specific requirements, including labeling requirements, that have been officially communicated to FSIS by the importing country. Therefore, no new export verification programs are necessary under this final rule.

Comment: Several domestic and foreign trade associations, foreign countries, and a private company argued that the proposed rule would act as a mandatory rule regarding exported products, as it would require segregation of finished products from imported animals. The commenters stated that this required segregation could lead to a future WTO case against the U.S. and potential retaliation from Canada and Mexico. One domestic trade association noted that such segregation requirements were both costly and the basis of WTO findings against the United States in previous trade disagreements. Finally, one domestic trade association stated that, due to the purportedly de facto mandatory segregation requirements, smaller producers would be denied the ability to use the voluntary ''Product of USA'' or ''Made in the USA'' U.S.-origin label claims.

Response: FSIS disagrees that the final rule will establish any mandatory regulatory requirements or impose mandatory costs on industry. Under the final rule, official establishments and facilities will not be required to include a ''Product of USA'' or ''Made in the USA'' claim on the labels of FSIS-regulated products. Official establishments and facilities may also choose to use a U.S.-origin label claim other than ''Product of USA'' or ''Made in the USA,'' should they decide that meeting the requirements for a ''Product of USA'' or ''Made in the USA'' claim is not desirable or cost effective for a particular product. FSIS notes that the final rule does not require segregation of products from animals. Any costs associated with maintaining compliance with the final rule will be voluntary and incurred by official establishments and facilities that choose to use U.S.-origin label claims.

Comment: One domestic trade association asked FSIS to consider a process for returned exported product or product that must be rerouted to domestic locations before being exported that may have ''Product of USA'' labeling export requirements, so that the product can be sold domestically.

Response: As with all FSIS-regulated products, returned exported product or product that must be rerouted to domestic locations that bears a ''Product of USA'' label claim will need to meet all applicable FSIS requirements before being sold domestically. For example, an establishment may need to use a pressure sticker to correct the label.[17]

F. ''Egg Products'' Definition

Comment: One domestic trade association, one foreign trade association, and one foreign country requested clarification on the definition of the term ''egg products'' for the purpose of the proposed rule, and a few of the commenters also asked whether table eggs would be subject to the proposed rule.

Response: The regulatory requirements for egg products bearing voluntary U.S.-origin label claims will apply to ''egg products'' as defined by the EPIA (21 U.S.C. 1031 *et seq.*) and the FSIS egg products inspection regulations (See 9 CFR part 590). Under the EPIA at 21 U.S.C. 1033(f), the term ''egg product'' means any ''dried, frozen, or liquid eggs, with or without added ingredients, excepting products which contain eggs only in a relatively small proportion or historically have not been, in the judgment of the Secretary, considered by consumers as products of the egg food industry, and which may be exempted by the Secretary under such conditions as he may prescribe to assure that the egg ingredients are not adulterated and such products are not represented as egg products.'' Table eggs are not FSIS-regulated products. Therefore, under the final rule, table eggs will not be subject to the regulatory requirements.

G. RTI Consumer Survey

Comment: One domestic trade association stated that the RTI survey suggested that the proposed rule would not effectively educate consumers about the country of origin of meat or processed products. The commenter stated that the survey findings suggested that even if the proposed rule were adopted and the ''Product of USA'' label were used only on product derived from animals born in the United States, more than 50 percent of U.S. consumers still would not know the meaning of the label. The commenter also noted that only about 31 percent of the survey participants noticed the ''Product of USA'' label. Therefore, the commenter concluded, it is unlikely the rule would resolve consumer confusion about current voluntary U.S.-origin label claims.

Response: FSIS disagrees with the commenter's categorization of what the survey results showed about consumers' understanding of voluntary U.S.-origin label claims. Only 16 percent of participants understood that current ''Product of USA'' label claims meant the product was processed in the United States. In contrast, about 56 percent of the participants believed that the ''Product of USA'' label meant that the animal was at least raised and slaughtered, and the meat then processed, in the United States. Of these participants, 47 percent also believed that the ''Product of USA'' claim indicates that the animal must also be born in the United States. Together, these results suggest that the current ''Product of USA'' label claim is misleading to most consumers, and consumers believe the ''Product of USA'' claim means the product was derived from animals born, raised, and slaughtered, and the meat then processed, in the United States.

FSIS further notes, as stated above, that this ''born, raised, processed, and slaughtered'' standard for the voluntary labeling of FSIS-regulated products with ''Product of USA'' and ''Made in the USA'' claims aligns with the 2021 FTC ''Made in the USA'' final rule that requires, in part, ''all or virtually all'' of a product's ingredients or components to be made and sourced in the United States for the product to bear ''Made in the USA'' and similar label claims (86 FR 37022). Finally, as also stated above, the fact that the Agency received over 3,000 comments from consumers who generally supported the proposed rule further demonstrates the need to provide consistent regulatory definitions of voluntary U.S.-origin

[15] FSIS Export Library, available at: *https://www.fsis.usda.gov/inspection/import-export/import-export-library.*

[16] See FSIS *Directive 9000.1, rev. 2, Export Certification* (August 1, 2018), available at: *https://www.fsis.usda.gov/policy/fsis-directives/9000.1.*

[17] See FSIS *Directive 7221.1, Rev. 3, Prior Label Approval* (January 18, 2023), available at: *https://www.fsis.usda.gov/sites/default/files/media_file/documents/7221.1.pdf.*

labels claims for FSIS-regulated products.

Comment: One domestic trade association stated that the survey results did not convincingly demonstrate that marketing labels, such as ''Product of USA'' labels, are meaningfully recognized by consumers. The commenter noted that the survey results indicated most consumers were not aware of the U.S.-origin label unless prompted. The commenter stated that, contrary to the Agency's conclusion in the proposed rule, the survey did not indicate that consumers frequently noticed the ''Product of USA'' label, simply that it was noticed.

Response: FSIS disagrees that the survey failed to show that consumers frequently notice the ''Product of USA'' claim. The results from the survey showed that ''Product of USA'' label claims are noticeable and important to consumers. Results from the survey's aided recognition [18] questions showed that 70 to 80 percent of eligible consumers correctly recalled seeing the ''Product of USA'' label claim. Results from the aided recognition questions also showed that participants correctly recalled the ''Product of USA'' label claim more often than other claims. Results from the survey's unaided recall questions showed that about 1 in 3 eligible consumers reported seeing a ''Product of USA'' claim when it was accompanied by a U.S. flag icon, while about 1 in 10 eligible consumers reported seeing a ''Product of USA'' claim when it was in plain text included in a list of other claims. RTI measured participants' awareness of ''Product of USA'' claims, by their ability to accurately recall if a claim was shown. This measurement served as an indicator of their attention towards the claim. The results of both the aided and unaided tasks showed that the presence of a ''Product of USA'' claim in any form increased the participants' attention to the product, suggesting that such claims are recognizable and important to the participants.

Comment: One domestic trade association disagreed with FSIS' conclusion, based on the survey, that consumers may be willing to pay more for products with a voluntary ''Product of USA'' or ''Made in the USA'' label claim. The commenter asserted that consumer research consistently demonstrates that, while consumers may state that they are interested or willing to pay more for certain claims or characteristics, price is the most important factor when making actual purchasing decisions.

Response: The Agency acknowledges that some of the marginal wiliness to pay (MWTP) estimates are likely higher than price premiums observed in the market. However, the Agency maintains that the RTI survey correctly concluded that some consumers may be willing to pay more for products with a ''Product of USA'' claim. This is supported by similar values found in the peer-reviewed literature [19] and demonstrated by the hedonic price model explained in the rule. However, for the purposes of this rulemaking, the goal of the survey was to understand how consumers perceive the definition of the ''Product of USA'' label and the ranking of consumer preferences for labels. FSIS acknowledges that consumers consider U.S.-origin claims along with many other characteristics while purchasing products. FSIS also agrees that price is a primary factor affecting consumer purchasing decisions. For this reason, RTI randomized the price attribute in the Discrete Choice Experiment (DCE) to more accurately estimate the MWTP for the ''Product of USA'' label. While price is an important factor, so too are ''Product of USA'' claims. The results from the RTI survey show that ''Product of USA'' claims are noticeable and important to consumers. Results from the survey's aided recognition questions show that 70 to 80 percent of eligible consumers correctly recalled seeing the ''Product of USA'' claim (88 FR 15290, 15294). The ''Product of USA'' requirements are intended to reduce false or misleading U.S.-origin labeling. This will reduce the market failures associated with incorrect and imperfect information. The changes will benefit consumers by aligning the voluntary ''Product of USA'' and ''Made in the USA'' label claims with the definition that consumers' likely expect, *i.e.,* as product being derived from animals born, raised, slaughtered, and processed in the United States.

Comment: One foreign trade association raised several concerns related to the RTI study methodology, as well as the analysis and purported accuracy of its findings. The commenter also included information about a separate consumer survey that the commenter commissioned to inform their comments on the proposed rule. The separate consumer survey showed that consumers have a MWTP premium for the ''Product of USA'' claim over the base product price. However, the separate consumer survey estimated MWTP values that were less than the estimated MWTP values in the RTI survey. The commenter concluded that a new research approach is needed before FSIS can determine the benefits and costs of changing the Agency's policy on use of the ''Product of USA'' label claim.

Response: FSIS notes that a few of the commenter's stated concerns about the RTI survey methodology were, in fact, editorial in nature. The Agency has reviewed these editorial comments and determined that they do not affect the results of the RTI survey or provide substantive information that the Agency could use to inform rulemaking. FSIS' responses to the commenter's other, non-editorial concerns follow:

Comment: The commenter noted that in an unaided consumer survey recall question, a very small proportion of participants recalled the ''Product of USA'' label on the package of ground beef they viewed, even though they were given 20 seconds to look at just one image, and even when ''Product of USA'' was next to a U.S. flag on the package. The commenter also argued that RTI did not provide a rationale for the consumer recall time of 20 seconds to notice the ''Product of USA'' label.

Response: FSIS disagrees that the survey results suggested a lack of consumer notice and importance of the ''Product of USA'' label. FSIS recognizes the limitations of the limited time exposure (LTE) experiment used during the survey, in that the survey is not a real-world setting. Given the nature of the experiment, RTI was only able to test recall when the ''Product of USA'' label was shown on the front of the package. RTI demonstrated that recall of ''Product of USA'' claims were statistically significant using the test of independent proportions. The 20-second time period was chosen based on input from an RTI expert in the LTE approach and data collected during an FSIS survey on safe handling

[18] For the limited time exposure portion of the RTI survey, participants were randomly assigned to view one of four mock products that varied in terms of whether the ''Product of USA'' claim was present and, if present, the location and format of the ''Product of USA'' claim. Participants were asked to list what labeling features they recalled. This first set of questions were considered unaided because they did not ask if the participant recalled seeing a specific image or phrase, and responses were open-ended. Participants then answered a set of questions to indicate whether they saw specific images and phrases (including the ''Product of USA'' claim). This second set of questions were considered aided because they asked the participant if they recalled seeing a specific image or phrase, and responses were closed ended (yes/no).

[19] (1) Loureiro, M.L., & Umberger, W.J. (2007). A choice experiment model for beef: What US consumer responses tell us about relative preferences for food safety, country-of-origin labeling and traceability. Food policy, 32(4), 496–514. (2) Lusk, J.L., Schroeder, T.C., & Tonsor, G.T. (2014). Distinguishing beliefs from preferences in food choice. European Review of Agricultural Economics, 41(4), 627–655.

instructions pretesting. Further, FSIS notes that when participants were directly asked during the survey whether they look for the ''Product of USA'' label when shopping for ground beef, 45 percent of eligible consumers responded ''most of the time'' or ''always'' and 25 percent responded ''sometimes.'' These results provided additional evidence that consumers rely on the ''Product of USA'' label when making purchase decisions.

Comment: The commenter stated that the MWTP for the ''Product of USA'' label resulting from the DCE models was too high compared to the price.

Response: FSIS disagrees. The commenter incorrectly summed the MWTP from two different DCE models described in the survey, $1.69 in DCE1 and $1.15 in DCE2 for ground beef. These models were two different discrete choice experiments with different respondent groups and measured two different preferences. Therefore, the results of each experiment were independent from one another, and the results should not be summed.

Further, the individual MWTP values are similar to those found in the peer-reviewed literature. Ideally, FSIS would compare estimates to other studies that investigate the MWTP for the ''Product of USA'' label. However, such a direct comparison is not possible given that no previous study has investigated the MWTP for products with this specific label. But, estimates obtained from other DCEs from the literature could be informative. For example, in a hypothetical choice experiment, Loureiro & Umberger [20] found that the average U.S. respondent in their study was willing to pay $2.57 (2003 dollars) per pound more for a ribeye steak that featured a country of origin label over an otherwise identical steak that did not feature a country of origin label. Alternatively, in a non-hypothetical choice experiment, Lusk et al.[21] found that U.S. consumers in their sample were willing to pay $1.68 more for a 12 oz. beef steak that was of United States origin than an otherwise identical ''weighted average origin'' steak. Although neither of these estimates are directly comparable to the MWTPs estimated in the RTI survey, they illustrate that the estimated MWTPs are not excessively high.

The Agency acknowledges that some of the estimated MWTP are likely higher than real world price premiums. This is demonstrated by the hedonic price model explained in the rule. This difference is likely because the estimated MWTP rely on stated preferences and may not reflect actual purchasing preferences in real life situations, as the survey respondents do not have their own money on the line. However, FSIS notes that, as explained in the proposed rule, the Agency did not rely on the MWTP results when calculating costs and benefits (88 FR 15290, 15302). Rather, FSIS used the ranking of preferences to inform its rulemaking.

Comment: The commenter argued that there were inaccuracies in the survey report description of the random utility models and mixed logit models that RTI used to test the hypotheses and estimate the MWTP. The commenter argued that the purported inaccuracies undermine confidence in the DCE survey results.

Response: FSIS disagrees that the RTI report description contains inaccuracies. Rather, the report description accurately explains: (1) that utility is composed of observable and unobservable components (Equation 2.1), (2) that the likelihood a person will choose one product over another depends on differences in utility of the two products (Equation 2.2), and (3) that observable utility is a linear function of product attributes (Equations 2.3 and 2.4). FSIS notes that these equations are all presented before mixed logit modeling is introduced. Therefore, these equations are accurate. Further, Equations 2.1 and 2.2 have been used in a peer-reviewed publication that used mixed logit modeling and was co-authored by RTI research personnel.[22] In addition, RTI's use of the mixed logit model enhances the standard approach of using conditional logit models in discrete choice experiments. The mixed logit model allows greater flexibility through relaxed assumption and extends the standard conditional logit model by allowing one or more of the parameters in the model to be randomly distributed.[23]

Comment: The commenter stated that RTI failed to provide reasoning for excluding one-third of DCE1 participants from its analysis.

Response: Explanations as to why RTI excluded participants from the analysis are provided in the final report; section 2.4 specifically details why RTI correctly excluded participants that participated in the soft launch from the DCE analyses.[24] These participants were excluded because the soft launch survey did not ask if the respondents had purchased the assigned DCE product within the past 6 months. The relevance of this question was revealed after RTI analyzed the results of the soft launch and added the question to the final survey. Excluding the soft launch participants ensured the survey results were based on the intended survey population.[25] More importantly, participant population used in DCE1 was robust enough to produce statistically sufficient results.

Comment: The commenter questioned RTI's methodology for the DCEs. Specifically, the commenter disagreed with how RTI handled participants who selected ''neither'' as a choice in the two DCEs.

Response: RTI used a standard method to control for the participants who selected the ''neither'' choice. RTI accounted for the ''neither'' choice by introducing an alternative-specific constant into the utility function for the ''neither'' choice. This constant allowed RTI to track and monitor ''neither'' responses and ensure results were statistically sufficient. RTI considered this method as the most straightforward approach to address such opt-out effects.[26]

Comment: The commenter expressed concern that MWTP estimates for various attributes measured in DCE1 and DCE2 were in strong statistical contradiction with one another.

Response: The commenter's concerns are unfounded. The findings the commenter cited resulted from two different sample groups, and the differences do not invalidate the findings. Further, the commenter's concerns around attributes other than those associated with ''Product of USA'' claims are beyond the scope of the RTI

[20] Loureiro, M.L., & Umberger, W.J. (2007). A choice experiment model for beef: What US consumer responses tell us about relative preferences for food safety, country-of-origin labeling and traceability. Food policy, 32(4), 496–514.

[21] Lusk, J.L., Schroeder, T.C., & Tonsor, G.T. (2014). Distinguishing beliefs from preferences in food choice. European Review of Agricultural Economics, 41(4), 627–655.

[22] *See* Finkelstein, E.A., Mansfield, C., Wood, D., Rowe, B., Chay, J., & Ozdemir, S. (2017). *Trade-Offs Between Civil Liberties And National Security: A Discrete Choice Experiment.* Contemporary economic policy, 35(2), 292–311.

[23] Train, Kenneth E. 2009. Discrete Choice Methods with Simulation, Cambridge, England: Cambridge University Press.

[24] Cates, S. et al. 2022. Analyzing Consumers' Value of ''Product of USA'' Label Claims. Contract No. GS–00F–354CA. Order No. 123–A94–21F–0188. Prepared for Andrew Pugliese.

[25] The survey population was defined as adult consumers who do at least half of the grocery shopping in the household and had purchased the randomly assigned DCE product within the past 6 months.

[26] Campbell, D., & Erdem, S. (2019). *Including opt-out options in discrete choice experiments: issues to consider.* The Patient-Patient-Centered Outcomes Research, 12, 1–14.

survey and not relevant to the Agency's rulemaking.

Comment: The commenter argued that the RTI survey MWTP findings are generalizable only to participants who typically purchase 85 percent lean/15 percent fat ground beef, not to consumers of all product types. To support this assertion, the commenter cited results of its own commissioned survey, which the commenter argued showed the MWTP for ground beef with a ''Product of USA'' label would likely be lower for consumers who purchase higher fat ground beef, and that it is likely that the MWTP depends on the price a consumer typically pays for ground beef.

Response: FSIS agrees that a single MWTP estimate cannot be generalized across all product types. However, the RTI survey included three example products: ground beef, NY strip steak, and pork tenderloin. These example products resulted in data for two species and a range of product values. The RTI survey found that all three of these products resulted in positive MWTPs for the ''Product of USA'' claim. The resulting per pound MWTPs were $1.69 for ground beef; $1.71 for pork tenderloin; and $3.21 for NY strip steak (see table 9 in the Expected Benefit of the Final Rule section).

However, as explained in the proposed rule, the goal of the RTI survey was to understand how consumers perceive the definition of the ''Product of USA'' label and the ranking of preferences (88 FR 15290, 15301), and this ranking can be generalized to similar products. For example, if a consumer thinks that a ''Product of USA'' claim displayed on an 85 percent lean/15 percent fat ground beef product label meant that the originating animal was born, raised, processed, and slaughtered in the United States, the consumer likely would think that a ''Product of USA'' claim has the same meaning when displayed on a 90 percent lean/10 percent fat ground beef product. Further, FSIS notes possible problems with the methodology and purported findings of the commenter's commissioned study and resulting MWTP estimates. Although RTI and FSIS do not have access to the survey instrument used, the report included with the comment submission seems to indicate that respondents were simply asked how much they would pay for different meat products. Specifically, as the report notes, ''respondents were shown different versions of ground beef packages and asked how much they would pay for each version.'' If that statement is correct, this question format is known as an open-ended contingent valuation question. This question format is known to be associated with a number of problems. Specifically, these questions are difficult for respondents to answer and are not compatible with assessing purchasing incentives. These problems led to a recommendation against using this question format in the 1993 ''Report of the National Oceanic and Atmospheric Administration (NOAA) Panel on Contingent Valuation.'' [27]

Comment: The commenter stated concerns that the RTI survey results on the differences in the MWTP between the two surveyed groups was not statistically significant, because RTI used an insufficient sample size.

Response: The commenter's concerns are unfounded. The differences in MWTP between the two groups was a finding of the model, not an error. Although the sample size of one group may be slightly lower, the results show consumers are willing to pay more for more product information.

H. Cost Benefit Analysis

Comment: Several commenters, including domestic and foreign trade associations and foreign countries, stated that the estimated additional costs explained in the cost benefit analysis failed to consider several practical issues that producers would experience under the proposed rule, which they stated would be similar to issues under mandatory labeling programs. For example, a few of the commenters stated that, under the AMS mandatory COOL program, producers have been forced to limit the facilities, times, and quantities of animals to be slaughtered to segregate meat products that can be labeled as ''Product of the U.S.A.'' from those that cannot. One foreign country also cited as a possible additional de facto mandatory cost the relabeling of products in the event of supply chain disruptions.

Response: FSIS disagrees that costs associated with the AMS COOL program or other mandatory labeling programs can be used to estimate anticipated costs associated with the final rule, which will impose no mandatory costs for industry. Under the final rule, official establishments and facilities will not need to include these voluntary claims on the labels of FSIS-regulated products. Official establishments can also choose to modify existing ''Product of USA'' or ''Made in the USA'' claims as necessary, should they decide that meeting the requirements for these specific claims is not beneficial or practical for a particular product.

Comment: Several commenters stated that the Agency failed to account for likely costs associated with the proposed rule. For example, according to a few domestic and foreign trade associations and foreign countries, companies would likely need to adopt costly changes in their production, slaughter, and processing practices to segregate animals and products through the supply chain. One domestic trade association cited possible costs related to conflicting labeling requirements among the United States and importing countries. A few domestic trade associations raised concerns about possible costs specific to companies that want to label ''local'' products with State or region-origin claims and may incur costs from using longer supply chains or sourcing less commercially available domestic ingredients.

Response: As explained in the proposed rule and the final cost benefit analysis, FSIS recognizes that official establishments and facilities that choose to use U.S.-origin label claims may incur costs based on this rule (88 FR 15290, 15298). However, the final rule will also benefit consumers and producers by establishing a requirement for the ''Product of USA'' label claim that will more accurately convey U.S.-origin product information and that is aligned with consumers' understanding of that claim in the marketplace. FSIS disagrees that implementation of this final rule will cause industry to adopt costly changes in their production, slaughter, and processing practices to segregate animals and products through the supply chain. Given the likely small premiums from and between origin claims, businesses lack an incentive to require their suppliers to make these changes. The Agency's hedonic price model, as explained in the proposed rule, estimated a price premium of 2.5 percent, or 10 cents per pound, for claims exclusive to U.S. origin (88 FR 15290, 15302). The model also estimated a price premium of 4.2 percent, or 16 cents per pound, for a claim that included multi-country origin claims referring to the U.S. and other countries.

FSIS further notes that the voluntary final rule does not impose any segregation requirements for products or originating animals. As another commenter on the proposed rule stated, if an establishment thinks that compliance costs for the voluntary requirements will outweigh price premiums, it can simply decide not to

[27] Whitehead, J.C. (2006). *A practitioner's primer on the contingent valuation method.* Handbook on contingent valuation, 66–91; Arrow, K., Solow, R., Portney, P.R., Leamer, E.E., Radner, R., & Schuman, H. (1993). *Report of the NOAA panel on contingent valuation.* **Federal Register**, 58(10), 4601–4614.

use a voluntary U.S.-origin label claim. State and region-origin claims were included in the rule's cost analysis. While one commenter described the possibility of increased costs, other commenters noted that use of origin claims will increase benefits.

Comment: One trade association requested the Agency explain whether it considered how the proposed rule may impact current market access for U.S. beef exports, and how a reduction in market access may negatively affect the profitability of U.S. cattle producers. The trade association also stated concern that packers and feedlots may start discounting cattle that do not spend their entire lives in the United States.

Response: FSIS notes that, as explained in the proposed rule, the regulatory requirements for U.S.-origin label claims will not apply to products intended for export from the United States (88 FR 15290, 15291). FSIS will continue to conduct export certification activities for FSIS-regulated products intended for export to foreign countries.[28]

FSIS does not expect packers and feedlots to start discounting cattle that do not spend their entire lives in the United States given the limited price premiums associated with these voluntary claims. The Agency's hedonic price model, as explained in the proposed rule and in this final rule, estimated a price premium of 2.5 percent, or 10 cents per pound, for claims exclusive to U.S. origin (88 FR 15290, 15302). The model also estimated a price premium of 4.2 percent, or 16 cents per pound, for a claim other than ''Product of USA'' or ''Made in the USA'' that included multi-country origin claims referring to the U.S. and other countries. Based on these results, consumers value foreign-sourced products, which suggests that there is no incentive to change purchasing of foreign sourced cattle, or packers and feedlots to discount this cattle.

Comment: One domestic trade association noted that the cost benefit analysis addressed retail labeling costs, but the commenter stated that the proposed rule would affect all labels, including those along the supply chain to support retail labels.

Response: The labels with which the commenter was concerned are included in the range of labels impacted by this rule (88 FR 15290, 15298). The cost benefit analysis considered the relabeling costs associated with 88,537 to 108,211 labels that include voluntary U.S.-origin claims. The cost benefit analysis also included recordkeeping costs, which encompasses the relevant supply chain cost to support labels. Therefore, FSIS accounted for all relevant costs in the final rule.

Comment: One domestic trade association noted that the Agency assumed in the cost benefit analysis that brands with fewer than 50 Universal Product Codes (UPCs) associated with FSIS-regulated products were small businesses. The commenter stated that this was an unsupported assumption, as the number of UPCs associated with a brand does not always indicate the size of a business, and small businesses may co-pack for other brands and supply to other companies. Further, the commenter stated, large businesses may not produce many directly-branded products but may supply many other companies that use many UPCs. The commenter also stated the number of UPCs provides no indication about the volume of product sold for each UPC.

Response: FSIS acknowledges that the number of small businesses is an estimate and relies on assumptions, but in absence of better data, FSIS is using this estimate to calculate the number of small businesses that may be affected by the final rule. FSIS does not have access to proprietary data reflecting the sales volume of brands, including those with authorized or qualified label claims, to calculate business profit margins. Also, commenters did not provide FSIS with sales data leading to more refined estimates.

Comment: One domestic trade association stated that although FSIS considered the cost of relabeling, the cost benefit analysis did not evaluate the lost margin cost of no longer using the voluntary ''Product of USA'' label claim. Therefore, according to the commenter, the Agency failed to evaluate lost value for those operations that will no longer be allowed to use the claim.

Response: Under the final rule, FSIS expects those businesses whose product does not meet the requirements for the ''Product of USA'' or ''Made in the USA'' claims (authorized claims) to be able to use claims other than ''Product of USA'' or ''Made in the USA''. As explained in the proposed rule, the Agency's hedonic price model found a price premium of 2.5 percent, or 10 cents per pound, for claims exclusive to U.S. origin (88 FR 15290, 15302). The model found a higher price premium of 4.2 percent, or 16 cents per pound, for multi-country origin claims referring to the United States and other countries. These premium values demonstrate that ''Product of USA'' or ''Made in the USA'' claims and other multi-country origin claims garner similar price premiums.

I. Recordkeeping Requirements

Types of Documentation and Recordkeeping Costs

Comment: One domestic trade association stated that supporting documentation requirements should be simple, consistent with existing practices, and outlined in guidance, not regulation. The commenter also stated that the requirements should be limited to documentation that is needed to meet the standard that labels are truthful and not misleading. One other domestic trade association stated that the only documentation required for verifying a ''Product of USA'' or ''Made in the USA'' label claim for beef products should be a declaration that the live animal bore no import markings when presented for slaughter at a U.S. slaughter establishment.

Response: The final rule establishes general recordkeeping requirements that provide flexibility for official establishments and facilities that choose to use a voluntary U.S.-origin label claim on FSIS-regulated products. The new regulatory text provides examples of the types of documentation that may be maintained to support a U.S.-origin label claim. Official establishments and facilities may choose which types of documentation to maintain, based on the particular U.S.-origin claim they seek to use and other considerations relevant to the product. As explained in the proposed rule, FSIS will accept existing documentation to demonstrate compliance with one or more of the regulatory requirements, such as records an official establishment or facility already may maintain to comply with other FSIS regulations or as part of its participation in another federal program (88 FR 15290, 15296). FSIS has updated its labeling guidance on the use of voluntary U.S.-origin label claims, to provide more examples of the types of documentation that official establishments and facilities may maintain to support use of the claims. The updated guidance is available on the FSIS website at: *https://www.fsis.usda.gov/guidelines/2024-0001*.

Comment: One domestic trade association stated that the Agency should explain whether, under the proposed rule, IPP would perform verification activities on farms and feedlots. The commenter also requested clarification on the types of

[28] See FSIS *Directive 9000.1, Rev. 2, Export Certification* (August 1, 2018), available at: *https://www.fsis.usda.gov/policy/fsis-directives/9000.1*.

documentation that farms and feedlots would be required to provide to the processor to verify that supporting documentation complies with the proposed requirements.

Response: FSIS IPP will perform routine verification activities at establishments to verify that labels bearing voluntary U.S.-origin claims comply with labeling requirements. All labels that are generically approved under the FSIS regulations are subject to such establishment-based IPP verification procedures. FSIS will not perform verification activities at farms or feedlots. Establishments and facilities will need to obtain from farms and feedlots documentation that will support the recordkeeping requirements for the use of voluntary U.S.-origin claims, such as load sheets and grower records (88 FR 15290, 15297).

Comment: A few domestic and foreign trade associations asserted that the proposed recordkeeping requirements were too costly, and that the burden of recordkeeping and related compliance costs would also vary based on an operation's location, type, and size.

Response: FSIS disagrees that the recordkeeping requirements are too costly. The use of origin claims will continue to be generically approved. The Agency expects many businesses will use existing records to support origin claims. Alternatively, businesses can reduce their recordkeeping costs by adjusting the claim that they use, from a ''Product of USA'' or ''Made in the USA'' claim (authorized claim), to another U.S.-origin claim (qualified claim). As explained in the proposed rule, the Agency's hedonic price model found similar price premiums for ''Product of USA'' claims and other U.S.-origin claims (88 FR 15290, 15302).

Traceability and Confidentiality

Comment: Several domestic trade associations stated concerns about the feasibility of maintaining records that provide full traceability back to originating farms and producers. A few of these commenters also stated concerns about the potential for recordkeeping requirements to compromise confidentiality of business operations information. One commenter stated that, unlike the current voluntary USDA AMS Processed Verified Program (PVP) and Quality Assessment Programs (QSA), in which information disclosure is made to a third-party verifying agent, producers subject to the proposed regulatory requirements may be forced to more widely disclose proprietary information.

Response: FSIS disagrees that the voluntary U.S.-origin labeling requirements will impose infeasible recordkeeping requirements with regards to traceability. Establishments are already required to keep records of all labeling, both generically approved and sketch-approved by FSIS, along with the product formulation and processing procedures, as prescribed in 9 CFR 320.1(b)(11), 381.175(b)(6), and 412.1. Further, under 9 CFR 412.1(a), establishments must keep any additional documentation needed to support that the labels are consistent with FSIS regulations. Establishments choosing to use a U.S.-origin label claim on a FSIS-regulated product will be required to maintain records that provide sufficient information to support that the labels are consistent with FSIS regulations.

FSIS also disagrees that producers subject to the regulatory requirements may be forced to disclose proprietary information. FSIS protects the confidentiality of proprietary or confidential industry information to which Agency personnel are afforded privileged access while carrying out their responsibilities.[29] This information includes background information that may be provided during the label approval process or maintained as part of generic label approval requirements. As with all business records containing proprietary or confidential information that official establishments and facilities are required to maintain under FSIS labeling regulations, records maintained to meet the U.S.-origin labeling requirements will be protected from disclosure.

Third-Party Certification

Comment: In the proposed rule, FSIS requested comment on whether the Agency should allow or require third-party certification for U.S.-origin label claims. In response, several domestic trade associations stated that FSIS should not require third-party certification of U.S.-origin claims. The commenters noted that FSIS does not currently require third-party certification for most label claims, and they stated that requiring third-party certification would be overly burdensome and expensive. One commenter also noted that a possible third-party certification requirement was not evaluated in the cost benefit analysis. In contrast, a few domestic trade associations stated that FSIS should allow or require USDA verification of voluntary U.S.-origin label claims, such as through the USDA AMS PVP. These commenters stated that, without meaningful audit and verification, the potential for ambiguous and inconsistent labeling of FSIS products would continue under the proposed rule.

Response: After reviewing the comments, FSIS has decided at this time not to require third-party certification for U.S.-origin label claims. Currently, FSIS only requires third-party certification for non-GMO claims because of the complexity of those claims. Current label recordkeeping requirements and Agency verification procedures for the use of origin label claims will be sufficient to ensure compliance with requirements for these label claims. As with all label claims, establishments have the option of obtaining third-party certification of their labeling claims or participating in applicable AMS PVP programs. Under the final rule, establishments using a voluntary U.S.-origin claim on labels of FSIS-regulated products must maintain documentation sufficient to demonstrate that the product complies with regulatory requirements.

J. U.S. State, Territory, and Locality-Origin Claims

Comment: A few domestic trade associations supported the inclusion of voluntary U.S. State and region-origin claims within the scope of the proposed rule. A few other domestic trade associations opposed the inclusion of U.S. State and region-origin claims. One domestic trade association stated concern about potential labeling compliance costs for producers of State or region-origin products. One other domestic trade association stated that FSIS should undertake separate rulemaking on the issue of State and region-origin label claims.

Response: FSIS disagrees that separate rulemaking is needed to address the use of voluntary U.S. State, Territory, and locality-origin label claims on FSIS-regulated products. Courts have determined that Agencies may make changes to the final rule that are logical outgrowths of the proposed rule, and do not require a separate notice and comment period.[30] As stated above, FSIS received comments supporting the inclusion of U.S. State and region-origin claims within the scope of the proposed rule. Also as stated above, the proposed rule directly addressed requirements for U.S. State and region-origin claims, and FSIS originally proposed to clarify these

[29] See FSIS *Directive 4635.6, Safeguarding Confidential Industry Information* (March 25, 1985), available at: *https://www.fsis.usda.gov/sites/default/files/media_file/2020-08/4735.6.pdf.*

[30] *Long Island Care at Home, Ltd.* v. *Coke*, 551 U.S. 158 (2007).

requirements in Agency guidance (88 FR 15290, 15296). Further, a label claim indicating the specific U.S. State, U.S. Territory, or U.S. locality origin of a FSIS-regulated product or product component is inherently a U.S.-origin label claim. Therefore, it is appropriate, and a logical outgrowth of comments received on the proposed rule to include such claims within the scope of this final rule. This rule will align Agency labeling requirements for specific U.S. State, Territory, and locality-origin claims with the requirements for broad U.S.-origin label claims, which will further the Agency's intent to reduce consumer confusion about what the ''Product of . . .'' label means.

As explained in the proposed rule, currently, State and region-origin claims may be generically approved for use on FSIS-regulated product labels if they are not misleading and they comply with the requirement under 9 CFR 317.8(b)(1) to properly identify the State, Territory, or locality in which the product was prepared (88 FR 15290, 15296). The final rule requirements for U.S. State, territory, and locality-origin claims are consistent with the proposed rule. Under the final rule, FSIS-regulated products labeled with ''Product of . . .'' or ''Made in the . . .'' claims referring to the origin of a U.S. State, Territory, or locality will need to meet the regulatory criteria under 9 CFR 412.3(a) and (b) for these claims (*e.g.,* a single ingredient product labeled with such a claim will need to be derived from an animal born, raised, slaughtered, and processed in the State, Territory, or locality). Label claims other than ''Product of . . .'' or ''Made in the . . .'' that refer to the U.S. State, territory, or locality-origin components of a FSIS-regulated product's preparation and processing will need to meet the criteria under 412.3(c) for these claims (*i.e.,* the claims will need to include a description of the preparation and processing steps that occurred in the State, Territory, or locality upon which the claim is made.) This requirement will ensure consistent U.S.-origin labeling, which includes origin labeling for all U.S. States, Territories, and localities, for FSIS-regulated products. FSIS has revised the proposed regulatory text in 9 CFR 412.3, as well as the existing regulatory text in 9 CFR 317.8(b)(1) and 9 CFR 381.129(b)(2),[31] to clarify these requirements for voluntary label use of U.S. State, territory, and locality-origin claims.

K. U.S. Flag Imagery

Comment: A few domestic trade associations asked the Agency to clarify when display of the U.S. flag on labels of FSIS-regulated products would be considered use of a voluntary ''Product of USA,'' ''Made in the USA,'' or other U.S.-origin claim. One of the commenters asked how the Agency's policy on U.S. flag imagery would correspond to U.S. State and region-origin label claims.

Response: Under current FSIS policy, display of the U.S. flag on labels of FSIS-regulated products is considered the display of a geographic landmark claim. Under the FSIS regulations, geographic landmark label claims must comply with the requirements in 9 CFR 317.8(b)(1) and 381.129(b)(2) to properly identify the State, territory, or locality in which the product was prepared or produced. Geographic landmark label claims, including flags, are eligible for generic approval under the regulations (88 FR 2798, 2805).

Under the final rule, the voluntary display of the U.S. flag, or a U.S. State or territory flag, on FSIS-regulated products will be considered use of a voluntary origin claim of the United States or the relevant U.S. State or territory. Specifically, display of a standalone image of the U.S. flag, or a U.S. State or Territory flag, will need to meet the requirements under 9 CFR 412.3(a) and (b) for use of voluntary ''Product of . . .'' and ''Made in . . .'' claims (*e.g.,* a single-ingredient product labeled with a standalone display of the U.S. flag must be derived from an animal born, raised, slaughtered, and processed in the United States). The display of an image of the U.S. flag, or a U.S. State or territory flag, may be used to designate the domestic origin of a component of a FSIS-regulated product's preparation and processing, but the flag image will need to be accompanied by a description of the preparation and processing steps that occurred in the United States, or the relevant U.S. State or territory, upon which the claim is being made (*e.g.,* display of the New York State flag on a sausage product with the accompanying description ''Sliced and Packaged in New York''). FSIS has updated its labeling guidance on the use of voluntary U.S.-origin label claims, to provide a visual example of how the display of a U.S. flag, or a U.S. State or territory flag, may be used to designate the domestic origin of a component of a FSIS-regulated product's preparation and processing. The updated guidance is available on the FSIS website at: *https://www.fsis.usda.gov/guidelines/2024-0001*.

FSIS has revised the proposed regulatory text in 9 CFR 412.3 to clarify the requirements for the voluntary label display of the U.S. flag, or a U.S. State or territory flag, on FSIS-regulated products. FSIS has also revised the regulatory text in 9 CFR 317.8(b)(1) and 381.129(b)(2), relating to labeling that indicates a product's geographic significance or locality, to clarify the requirements for such voluntary label use of U.S., U.S. State, and U.S. territory flags. As with all labels that are generically approved under the FSIS regulations, label use of the U.S. flag and U.S. State and territory flags will be subject to routine verification activities at establishments by IPP to verify that the labels comply with labeling requirements.[32] The labels must be truthful and not misleading.

As stated above, label displays of the U.S. flag, or a U.S. State or territory flag, are inherently claims indicating a product's origin. As results from the consumer survey show, the final rule requirements for the voluntary use of the U.S. flag, or a U.S. State or territory flag, on FSIS-regulated products will ensure that the labels are consistent with consumers' understanding and expectations of products labeled with such flags. Results from the consumer survey's unaided recall questions showed that about 1 in 3 eligible consumers reported seeing a ''Product of USA'' claim when it was with a U.S. flag icon, while about 1 in 10 eligible consumers reported seeing a ''Product of USA'' claim when it was in plain text included in a list of other claims (88 FR 15290, 15301). These results suggest that consumers are interested in label displays of the U.S. flag and associate such labeling with their understanding of what the ''Product of USA'' label means.

L. Cell-Cultured Meat Products

Comment: Several animal welfare and policy organizations asked FSIS to address how, under the proposed rule, the Agency will consider FSIS-regulated cell-cultured meat and poultry products that bear voluntary U.S.-origin label claims. One commenter stated that cell-cultured products should be eligible for generic label approval when they are processed in the United States. One other commenter stated that, as a direct competitor to traditionally produced meat and poultry products, cell-cultured

[31] While the provisions in 9 CFR 317.8(b)(1) prohibit the false or misleading labeling of FSIS-regulated products generally, the FSIS regulations at 9 CFR 381.129(b)(2) also prohibit the false or misleading labeling of FSIS-regulated poultry products specifically.

[32] See FSIS *Directive 7221.1, Rev. 3, Prior Label Approval* (January 18, 2023), available at: *https://www.fsis.usda.gov/policy/fsis-directives/7221.1*.

meat and poultry products should be eligible to bear the same voluntary U.S.-origin label claims as FSIS-regulated slaughtered products, and that the process should not be more burdensome.

Response: As FSIS has explained in the advance notice of proposed rulemaking concerning these products, the labels of FSIS-regulated cell-cultured meat and poultry products are not currently eligible for generic approval under the Agency's prior label approval system (86 FR 49491, 49493, September 3, 2021). Therefore, FSIS will review all labels and claims on these products before they can be used in commerce to ensure they are truthful and not misleading. The criteria for use of voluntary U.S.-origin claims under this final rule will apply to cell-cultured product under FSIS jurisdiction. The voluntary label claims ''Product of USA'' and ''Made in the USA'' will be allowed on cell-cultured products only if all the preparation and processing steps for the cells occurred in the United States.

M. Enforcement of Regulatory Requirements

Comment: A few domestic trade associations requested FSIS clarify how the Agency intends to enforce violations of the new labeling requirements, such as when documentation is determined to be insufficient to support a voluntary U.S.-origin label claim.

Response: For enforcement of this rule, FSIS will follow existing FSIS regulations and FSIS Directives. When a label is not in compliance with the regulatory requirements, IPP are to document the noncompliance, in accordance with 9 CFR 412.1.[33] In addition, IPP are to retain any product bearing that label and require establishments to update labels that are not in compliance with FSIS' labeling regulations. Before the product may enter commerce, the establishment must take corrective actions. Further, in the case of intentional non-compliance with FSIS labeling regulations, the Agency may take action to control misbranded products and take enforcement action under the FSIS Rules of Practice (9 CFR part 500).

N. Implementation of Regulatory Requirements

Comment: A few domestic trade associations stated that industry will need sufficient time to implement the required changes under the proposed rule. One trade association supported the Agency's plan, as explained in the proposed rule, to use the predetermined uniform compliance date schedule for implementation of the regulatory requirements (88 FR 15290, 15297). One foreign country requested that, if the final rule is finalized, FSIS delay the timeline for implementation to allow producers to better prepare for the requirements.

Response: As explained in the proposed rule, FSIS generally uses a uniform compliance date for new labeling regulations (88 FR 15290, 15297). The uniform compliance date is intended to minimize the economic impact of labeling changes by providing for an orderly industry adjustment to new labeling requirements that occur between the designated dates.[34] Per the uniform compliance date schedule, establishments will need to comply with the new regulatory requirements on January 1, 2026 (87 FR 77707, December 20, 2022). On that date, FSIS will consider as compliant only labels bearing the voluntary claims ''Product of USA,'' ''Made in the USA,'' and other U.S.-origin claims for FSIS-regulated products that meet the codified requirements for the use of such claims. Establishments may choose to voluntarily change their labels to comply with the final rule before January 1, 2026. This compliance date will provide sufficient time to implement the voluntary labeling requirements for official establishments and facilities that choose to include U.S.-origin claims on labels of FSIS-regulated products.

IV. Executive Orders 12866 and 13563

Executive Orders (E.O.) 12866 (as amended by E.O. 14094) 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). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This final rule has been reviewed by the Office of Management and Budget under E.O. 12866 although it has not been designated a ''significant'' regulatory action by the Office of Information and Regulatory Affairs under section 3(f)(1) of E.O. 12866.

FSIS updated the estimated costs for the final rule from those published in the proposed rule from 2021 dollars to 2022 dollars. These changes include: updating the relabeling costs to businesses by updating the 2014 FDA Label Cost Model (FDA Label Cost Model) [35] to 2022 dollars; updating the recordkeeping costs using wage rates for operations managers to 2022 dollars; and updating market testing costs for inflation to 2022 dollars. In response to concerns from commenters on the impact to small businesses, FSIS updated the Regulatory Flexibility Act Assessment with an analysis comparing the final rule's estimated cost for small businesses using U.S.-origin claims to the average revenue for small businesses in the industry. The final rule is expected to result in quantified industry relabeling, recordkeeping, and market testing costs, which combined are estimated to be $3.2 million, annualized at a 7 percent discount rate over 10 years. For comparison, the proposed rule had an estimated cost of $3 million, annualized at a 7 percent discount rate over 10 years.

Need for the Rule

Under current FSIS policy, products with a ''Product of USA'' or similar claim must, at a minimum, have been processed in the United States.[36] For instance, currently, cattle born, raised, slaughtered, and processed in another country may be labeled ''Product of USA'' if the meat was merely further processed in the United States.

This policy may cause false impressions about the origin of FSIS-regulated products in the U.S. marketplace, potentially causing market failures. FSIS has received three petitions from industry associations, each requesting that FSIS address this confusion by revising this policy. The Agency received almost 3,000 public comments in response to these petitions, the majority of which supported altering this policy. FSIS also conducted the RTI survey to gather information on the American consumers' understanding of the meaning of the ''Product of USA'' claim.

In addition, most of the public comments to the proposed rule were in support of the proposed changes.

[33] See FSIS *Directive 7221.1, Rev. 3, Prior Label Approval* (January 18, 2023), available at: *https://www.fsis.usda.gov/policy/fsis-directives/7221.1*.

[34] See FSIS *Uniform Date for Food Labeling Regulations Final Rule* (69 FR 74405, December 14, 2004).

[35] Muth, M., Bradley, S., Brophy, J., Capogrossi, K., Coglaiti, M., & Karns, S. (2015). *2014 FDA labeling cost model.* U.S. Food and Drug Administration.

[36] U.S. Department of Agriculture, Food Safety and Inspection Service. Food Standards and Labeling Policy Book. 2005. *https://www.fsis.usda.gov/guidelines/2005-0003*.

Specifically, over 3,000 consumers, and most domestic producers and organizations, supported the proposed rule, with many citing the need for accurate labeling to ensure that FSIS-regulated products labeled as ''Product of USA'' or ''Made in the USA'' are derived from animals born, raised, slaughtered, and processed in the United States.

Based on the information reviewed by FSIS, the Agency has concluded that the current ''Product of USA'' labeling policy guidance does not reflect consumers' common understanding of what ''Product of USA'' claims mean on FSIS-regulated products. Therefore, the Agency is finalizing regulatory requirements for when the labeling of FSIS-regulated products may bear voluntary claims indicating that the product, or a component of the product's preparation or processing, is of U.S. origin in order to ensure such labels do not mislead or confuse consumers as to the actual origin of FSIS-regulated products.

Baseline for Evaluation of Costs and Benefits

The final rule may require businesses voluntarily using U.S.-origin claims on meat, poultry, and egg product labels to update their labels and conduct increased recordkeeping. FSIS used Label Insight [37] to estimate the number of single and multi-ingredient meat, poultry, and egg product retail labels and the number with an associated U.S.-origin claim.[38]

This analysis identified two types of U.S.-origin claims: (1) Authorized claims, *i.e.,* ''Product of USA'' or ''Made in USA''; and (2) Qualified claims, *e.g.,* ''Raised and Slaughtered in the USA.'' Some of these labels with claims described above are also subject to COOL regulations regarding mandatory labeling depending on the commodity type.[39] To avoid double counting labels, packages with multiple U.S.-origin claims, *e.g.,* ''Product of USA'' on the back display and ''Born and Raised in America'' on the front display, were put into the ''Qualified'' category.

Based on Label Insight data, FSIS identified approximately 98,374 meat, poultry, and egg product retail labels. FSIS then searched the list of 98,374 labels and identified approximately 11,469 with a U.S.-origin type claim, or approximately 12 percent. To account for the possibility of over- or under-estimating the number of relevant labels, this analysis included a lower and upper bound by adjusting the mid-point label estimate minus or plus 10 percent, respectively. As such, FSIS estimates the number of meat, poultry, and egg product retail labels ranges from 88,537 to 108,211 labels and the number of labels with a U.S.-origin claim ranges from 10,322 to 12,616, table 1.[40]

TABLE 1—MEAT, POULTRY AND EGG PRODUCT LABELS [3]

	FSIS labels	U.S.-Origin claims		
		Authorized [1]	Qualified [2]	Total
Low bound	88,537	9,035	1,287	10,322
Mid-point	98,374	10,039	1,430	11,469
Upper bound	108,211	11,043	1,573	12,616

[1] Includes ''Product of USA'' or ''Made in USA.''
[2] Includes detailed U.S.-origin claims, such as ''Born and raised in USA'', and U.S. State and region claims.
[3] The lower and upper bound label estimates are minus or plus 10 percent of the mid-point label estimates.

Expected Costs of the Final Action

The final rule is expected to result in quantified industry relabeling, recordkeeping, and market testing costs, which combined are estimated to cost $3.2 million, annualized at a 7 percent discount rate over 10 years. Details of these cost estimates are provided below.

Relabeling Costs

Under this final rule, FSIS-regulated single ingredient and multi-ingredient products that are not derived from animals born, raised, slaughtered, and processed in the United States will no longer be able to bear the authorized claims of ''Product of USA'' or ''Made in the USA.'' These products will have to be relabeled by either removing the authorized voluntary claim or by using a qualified claim that would describe the production or processing steps that occurred in the United States. For example, a FSIS-regulated product package from an animal not born and raised in the U.S. might replace an authorized claim of ''Product of USA'' with a qualified claim, ''Sliced and packaged in the United States using imported pork.'' Products with a qualified claim might also have to be relabeled to remove or modify the claim, depending on the facts and circumstances of the particular situation.

To estimate the costs associated with relabeling products that will no longer meet the requirements for using their existing labels, this analysis utilized the FDA Label Cost Model [41] and 2022 Label Insight data. The relabeling costs depend on the number of labels required to change, whether the change can be coordinated with a planned label update, and the type of label change (extensive, major, or minor).

As described in the Baseline for Evaluation of Costs and Benefits section, FSIS estimated the number of labels with a U.S.-origin claim. FSIS estimated that a portion of the labels with U.S.-origin claims will modify or remove the claim in response to this final rule as some labels already meet the final and current labeling criteria. However, it is difficult to estimate the number of claims that will change in response to

[37] Label Insight, accessed July 2022. Label Insight is a market research firm that collects data on over 80 percent of food, pet, and personal care products in the U.S. retail market. Data are collected mostly from public web sources and company submissions. See *https://www.labelinsight.com/our-difference/* for more information.

[38] Based on FSIS' labeling expertise, foodservice labels of products sold to hotels, restaurants, and institutions generally do not have a U.S.-origin claim. Therefore, the cost analysis did not include foodservice labels.

[39] *As of 2016, the FSIS-regulated-species and products which are covered commodities under the COOL regulations include muscle cuts of lamb, chicken, and goat; ground lamb, chicken, and goat; and wild and farmed Siluriformes fish.*

[40] To find the meat, poultry, and egg product labels, we first queried the Label Insight data for labels that Label Insight identified as not being in FDA's jurisdiction. We also searched for the terms ''beef'', ''pork,'' and ''chicken'' in the database of labels that Label Insight identified as products under FDA jurisdiction and noted the labels that were in FSIS' jurisdiction. We also examined lamb, mutton, and goat labels but found the number of unique labels were de minimis compared to the number of labels found in the other commodity groups with larger domestic consumption. The label counts include multi- and single ingredient meat, poultry, and egg products.

[41] Muth, M., Bradley, S., Brophy, J., Capogrossi, K., Coglaiti, M., & Karns, S. (2015). *2014 FDA labeling cost model.* U.S. Food and Drug Administration.

the final rule due to data limitations. To account for this uncertainty, FSIS chose a conservative and broad range, with low, mid, and upper bound estimates, to approximate the percentage of product labels that may be relabeled, table 2. The low, mid, and upper bound estimates were calculated by multiplying the low, mid, and upper bound estimated number of labels with a U.S.-origin claim by 25, 50, and 75 percent, respectively.

TABLE 2—NUMBER OF FSIS LABELS THAT WILL BE RELABELED

Estimate	Labels with U.S.-origin claims	Count of labels with changes
Low bound	10,322	2,581
Mid-point	11,469	5,735
Upper bound	12,616	9,462

The number of label changes that can be coordinated with a planned change depends on the compliance time industry has to update labels after the final rule. For the purpose of this analysis, FSIS anticipates the compliance period will be somewhere between 22 and 26 months. Assuming a 24-month compliance period, 100 percent of branded products label updates will be coordinated with a planned label change by that date. However, for private (store brand) labels, only 26 percent will have a coordinated label change, and 74 percent will be uncoordinated.[42] This is because private labels change less frequently than branded labels. This analysis assumed approximately 25 percent of labels are private and 75 percent are branded.[43] Therefore, an estimated 81.5 percent of the labels requiring an update as a result of the rule will have a coordinated change and 18.5 percent will have an uncoordinated change.[44] Based on the FDA Label Cost Model, the label changes that will result from the rule are considered minor. The FDA Label Cost Model defines a minor label change as one where only one color is affected and the label does not need to be redesigned, such as changing an ingredient list or adding a toll-free number.[45]

TABLE 3—TOTAL NUMBER OF FSIS LABELS THAT WILL BE RELABELED AND THE TYPE OF CHANGE

Estimate	Total labels [1]	Private	Branded	Minor coordinated	Minor uncoordinated
Low bound	2,581	645	1,936	2,103	477
Mid-point	5,735	1,434	4,301	4,673	1,061
Upper bound	9,462	2,365	7,097	7,712	1,750

[1] Totals may not sum due to rounding.

The estimates in the FDA Label Cost Model were updated to account for inflation using 2022 producer price indices for the material and consultation costs and 2022 wage rates [46] for the labor hours. The cost estimates in 2022 U.S. dollars are: $874 per label for a minor coordinated change (with a range of $203 [47] to $1,802), and $5,043 per label for a minor uncoordinated change (with a range of $2,222 to $8,968). Combined, the mean estimated relabeling cost is $1.3 million, annualized at a 7 percent discount rate over 10 years, table 4.

TABLE 4—LABELING COSTS WITH A 24-MONTH COMPLIANCE PERIOD IN MILLIONS OF DOLLARS

	Type	Lower	Mean	Upper
Coordinated	Minor	$0.4	$4.1	$13.9
Uncoordinated	Minor	1.1	5.4	15.7
Total Cost.[1]		1.5	9.4	29.6
Annualized Cost (3% DR, 10 Year)		0.2	1.1	3.4
Annualized Cost (7% DR, 10 Year)		0.2	1.3	3.9

[1] Totals may not sum due to rounding.

[42] Muth, M., Bradley, S., Brophy, J., Capogrossi, K., Coglaiti, M., & Karns, S. (2015). *2014 FDA Labeling Cost Model*. U.S. Food and Drug Administration. Table 3–1. Assumed Percentages of Changes to Branded and Private-Label UPCs that Cannot be Coordinated with a Planned Change.

[43] Based on private and branded label estimates for all FSIS labels in the FSIS' Proposed rule, ''Revision of Nutrition Facts Labels for Meat and Poultry Products and Updating Certain Reference Amounts Customarily Consumed'', Published January 19, 2017. *https://www.regulations.gov/document/FSIS-2014-0024-0041*.

[44] For coordinated changes: (75% branded labels × 100% coordinated given 24-month compliance period) + (25% private labels × 26% coordinated given a 24-month compliance period) = 81.5% of FSIS labels can be coordinated with a planned change.

[45] Muth, M., Bradley, S., Brophy, J., Capogrossi, K., Coglaiti, M., & Karns, S. (2015). *2014 FDA Labeling Cost Model*. U.S. Food and Drug Administration. Page 2–9. A major change requires multiple color changes and label redesign, such as adding a facts panel or modifying the front of the package.

[46] Muth, M., Bradley, S., Brophy, J., Capogrossi, K., Coglaiti, M., & Karns, S. (2015). *2014 FDA Labeling Cost Model*. U.S. Food and Drug Administration. Table 4–7. Hourly Wage Rates for Activities Conducted in Changing Product Labels, 2014.

[47] Please note that in comparison to the proposed rule, this number decreased from $205 to $203 because the national wage rate for advertising and promotions managers at the 10th percentile level decreased from $29.45 in 2021 dollars to $29.03 in 2022 dollars. This wage is an input in the FDA Label Cost Model. Estimates obtained from the Bureau of Labor Statistics, May 2022, National Industry-Specific Occupational Employment and Wage Estimates, for advertising and promotions managers (10th percentile)(Occupational Code 11–2011). Advertising and promotion managers (bls.gov)

Recordkeeping Costs

Currently, businesses using labels to designate the U.S.-origin of an FSIS-regulated product, or a component of a product's processing and preparation, must maintain records to support the U.S.-origin claim.[48] Currently, U.S.-origin claims are approved under a generic label approval system. Under the generic approval system, businesses that make products with a U.S.-origin claim are currently estimated to take 15 minutes on average to gather their records, 20 times per year.[49] FSIS estimated that the provisions in this final rule will require businesses to spend an additional 20 minutes (for a combined total of 35 minutes) to gather their records, 20 times per year, per respondent. FSIS acknowledges that it will take substantially more time to document some U.S.-origin claims, such as description of preparation or processing steps, or for U.S.-origin claims on multi-ingredient products. In some cases, establishments can elect to either remove the U.S.-origin claim from the label or make an alternative claim. Due to data limitations, FSIS used brand names associated with a U.S.-origin claim found in Label Insight data to estimate the number of businesses. FSIS estimated that approximately 1,575 brands or businesses have products with U.S.-origin claims and will have additional recordkeeping costs under the final rule. This analysis assumed this recordkeeping will be completed by an operations manager with an hourly estimated cost of $103.24 at the median and a range of wages from ($72.46 to $157.42).[50] As such, the estimated annual cost per business is approximately $688. The estimated annual cost to all 1,575 businesses is approximately $1.1 million, table 5.

TABLE 5—RECORDKEEPING ANNUAL COSTS IN MILLIONS OF DOLLARS

Businesses	Annual number of responses	Minutes per response	Lower	Mid	Upper
1,575	20	20	$0.8	$1.1	$1.7
Annualized Cost (3% DR, 10 Year)		0.8	1.1	1.7	
Annualized Cost (7% DR, 10 Year)		0.8	1.1	1.7	

Market Testing

To assess the marketability of potential label changes, the FDA Label Cost Model includes information on five types of market tests: [51] focus group, discrimination test, central location test, descriptive test, and in-home test. The mean cost for these market tests ranges from $7,788 to $39,497 per formula.[52] The FDA Label Cost Model reports that minor label changes are unlikely to incur any market testing costs.[53] However, some businesses may still want to conduct market testing to assess how consumers will respond to a label change. FSIS estimates that 25 to 75 percent of businesses that have products with U.S.-origin claims will conduct a focus group test on one product formula. FSIS assumed that not every brand will conduct market testing because not every brand will make a change, and such testing is expensive. Additionally, the label changes are expected to be minor, and typically, brands do not conduct market research for minor changes. The estimated cost for a focus group test is $8,035 per formula (with a range of $7,613 to $8,458) in 2022 dollars.[54] Combined, the mean estimated market testing cost is $0.8 million, annualized at a 7 percent discount rate over 10 years, table 6.

TABLE 6—MARKET TESTING COSTS IN MILLIONS OF DOLLARS

	Lower	Mean	Upper
Total Businesses with Market Testing	394	788	1,181
Total Cost [1]	$3.0	$6.3	$10.0
Annualized Cost (3% DR, 10 Year)	0.3	0.7	1.1
Annualized Cost (7% DR, 10 Year)	0.4	0.8	1.3

Cost Summary

Under the provisions in this final rule, industry will likely incur a one-time relabeling cost, market testing cost, and annual recordkeeping costs. Combined and annualized assuming a 7 percent discount rate over 10 years, total industry cost is $3.2 million, table 7.

[48] Businesses with complicated supply lines are not expected to use an authorized claim.

[49] Generic proposed rule: 85 FR 56544, September 14, 2020.

[50] The hourly cost includes a wage rate of $51.62 and a benefits and overhead factor of 2. Estimates obtained from the Bureau of Labor Statistics May 2022, National Industry-Specific Occupational Employment and Wage Estimates, for Management Occupations 50th (25th-75th percentile)(Occupational Code 11–0000), Management Occupations (*bls.gov*)

[51] Mean estimates from the 2014 FDA Label Cost Model were updated to 2022 dollars for inflation. Muth, M., Bradley, S., Brophy, J., Capogrossi, K., Coglaiti, M., & Karns, S. (2015). *2014 FDA Labeling Cost Model*. U.S. Food and Drug Administration. Page 4–43. Table 4–10. Estimated Market Testing Costs in the Labeling Cost Model, 2014 ($/Formula)

[52] Note, a single formula may be represented by more than one UPC because of multiple package sizes or types of packaging. Based Table 4–3 in the FDA Label Cost model, on average, there are approximately 1.17 UPCS per formula for food in NAICS categories 311612, 311615, and 311613.

[53] Muth, M., Bradley, S., Brophy, J., Capogrossi, K., Coglaiti, M., & Karns, S. (2015). *2014 FDA Labeling Cost Model*. U.S. Food and Drug Administration. Page 4–32. For minor labeling changes, ATC [analytical testing costs] and MTC [market testing costs] are likely to be 0.

[54] Muth, M., Bradley, S., Brophy, J., Capogrossi, K., Coglaiti, M., & Karns, S. (2015). *2014 FDA labeling cost model*. U.S. Food and Drug Administration. Page 4–43.

TABLE 7—TOTAL COSTS IN MILLIONS OF DOLLARS

Cost type	Lower	Mean	Upper
Relabeling	$1.5	$9.4	$29.6
Recordkeeping	0.8	1.1	1.7
Market Testing	3.0	6.3	10.0
Annualized Cost (3% DR, 10 Year)	1.3	2.9	6.2
Annualized Cost (7% DR, 10 Year)	1.4	3.2	6.9

Expected Benefit of the Final Rule

The RTI survey results suggest that the current ''Product of USA'' label claim is misleading to a majority of consumers, and consumers believe the ''Product of USA'' claim means the product was made from animals born, raised, and slaughtered, and the meat then processed, in the United States.

From the RTI survey, about 56 percent of survey participants answering the multiple choice question ''To your knowledge, what does the Product of USA label claim on meat products mean?'' thought a ''Product of USA'' claim meant the animal was at least raised and slaughtered and the meat then processed in the United States. Of these participants, 47 percent also believed that the ''Product of USA'' claim indicates that the animal must also be born in the United States, Table 8. Just 16 percent of participants selected the current FSIS policy definition, which only requires that the product be processed in the United States; the animals can be born, raised, and slaughtered in another country. Based on the survey results, the current FSIS ''Product of USA'' labeling guidance does not appear to provide consumers with accurate origin information. These findings suggest that the current ''Product of USA'' label claim is misleading to a majority of consumers. This final rule will adopt a requirement for the ''Product of USA'' claim that will convey more accurate U.S.-origin information and thus reduce consumer confusion in the marketplace.

TABLE 8—PRODUCT OF USA LABEL CLAIM MEANING

Survey Question: To your knowledge, what does the Product of USA label claim on meat products mean?	Percent of responses
(A) Must be made from animals *born, raised,* and *slaughtered* and the meat then *processed* in the USA.	47
(B) Must be made from animals *raised* and *slaughtered* and the meat then *processed* in the USA; the animals can be born in another country	9
(C) Must be made from animals *slaughtered* in the USA; the animals can be born and raised in another country	8
(D) Must be *processed* in the USA; the animals can be born, raised, and slaughtered in another country	16
(E) Not sure/don't know	21

Note: Totals may not sum due to rounding.

The results from the RTI survey also reveal that ''Product of USA'' claims are noticeable and important to consumers. Results from the survey's aided recognition questions show that 70 to 80 percent of eligible consumers correctly recalled seeing the ''Product of USA'' claim. Results from the aided recognition questions also showed that participants correctly recalled the ''Product of USA'' label claim more often than other claims. Results from the survey's unaided recall questions show that about 1 in 3 eligible consumers reported seeing a ''Product of USA'' claim when it was with a U.S. flag icon, while about 1 in 10 eligible consumers reported seeing a ''Product of USA'' claim when it was in plain text included in a list of other claims. These results suggest that consumers frequently notice the ''Product of USA'' label claim. Based on these results, FSIS assumes consumers are interested in ''Product of USA'' claims.

Finally, the RTI study also includes estimates of consumers' MWTP for different U.S.-origin claims using two DCEs. The first DCE asked survey respondents if they were willing to pay more for products with a ''Product of USA'' claim compared to the same product, but with no origin claim. The second DCE asked survey respondents if they were willing to pay different amounts for different definitions on the spectrum of born, raised, slaughtered, and processed in the United States. Each DCE had three product-subgroups: ground beef, NY strip steak, and pork tenderloin. The results from the first DCE show that consumers are willing to pay more for products with a ''Product of USA'' claim, in comparison to similar products without this claim, table 9. Specifically, results comparing products with a ''Product of USA'' claim to ones without such a claim reveal an increase in MWTP per pound of $1.69 for ground beef; $1.71 for pork tenderloin; and $3.21 for NY strip steak, table 9. These results were found to be consistent across income groups.

The results from the second DCE show that in comparison to products that were processed in the United States, consumers have the highest MWTP for products that were born, raised, slaughtered, and processed in the United States, table 9. Specifically, results show a MWTP per pound of $1.15 for ground beef; $1.65 for pork tenderloin; and $3.67 for NY strip steak, for products that were born, raised, slaughtered, and processed in the United States, table 9.

TABLE 9—MWTP FOR PRODUCT OF U.S.-ORIGIN CLAIMS, PER POUND

	Ground beef	Pork tenderloin	NY strip steak
DCE 1 *			
Product of USA	$1.69	$1.71	$3.21
DCE 2 **			
Slaughtered and Processed in the USA	0.30	0.50	1.24
Raised, Slaughtered, and Processed in the USA	0.86	1.24	2.86
Born, Raised, Slaughtered, and Processed in the USA	1.15	1.65	3.67

* Comparing products with a ''Product of USA'' claim versus products without this claim (when no definition was provided).
** Compared to product with a ''Processed in the USA'' claim.

Consumer MWTP estimates, such as those obtained by the RTI survey, rely on stated preferences and may not reflect actual purchasing references in real life situations as the survey respondents do not have their own money on the line. To complement the survey study, FSIS also used a hedonic price model to estimate implicit price premiums of U.S.-origin claims on uniform-weight ground beef products. See Appendix A [55] for the detailed analysis on this hedonic price model. The hedonic price model compared a variable for origin claims linked to the U.S. only and a variable for multi-country origin claims linked to the U.S. plus other countries, to similar products without any U.S.-origin claims [56] on ground beef products. The model found a price premium of 2.5 percent or 10 cents per pound for claims exclusive to U.S. origin. The model found an even higher price premium of 4.2 percent or 16 cents per pound for multi-country origin claims referring to the U.S. and other countries. These implicit price premiums suggest consumers may currently pay more for ground beef products with origin information, including origin claims linked to the U.S. plus other countries, compared to products without any U.S.-origin claims. Based on these results, the estimated price premium for a ground beef product with a U.S.-only origin claim will not decline if the origin claim is modified to include the U.S. and other countries. For context, it should be noted that the estimated price premiums were less than the premiums for other common marketing claims on ground beef products, such as organic, grass-fed, pasture raised, and no antibiotic and no hormone. These marketing claims yielded higher price premiums, ranging from $0.66 to $0.83 per pound, which could suggest that some producers may opt for these types of marketing claims rather than an origin claim. FSIS assumes this relationship holds across other FSIS-regulated product types.

This data from the RTI survey and implicit price premium analysis suggests that consumers have a different understanding of what a ''Product of USA'' claim means when they purchase FSIS-regulated products, compared to the current definition. Consumers expect these labels to convey accurate information about the U.S. origin of the production and preparation of the labeled product based on their understanding of the claim. Without more accurate labeling, consumers may be paying more for products that do not actually conform to their expectations, thus distorting the market.

Benefits Summary

The final ''Product of USA'' regulatory definitions of voluntary U.S.-origin claims align the meaning of those claims with consumers' understandings of the information conveyed by those claims, information that is valued by consumers. The final changes to the ''Product of USA'' voluntary labeling policy are necessary to reduce false or misleading U.S.-origin labeling (See 9 CFR 317.8(a), 381.129(b), and 590.411(f)(1)).[57] This will reduce the market failures associated with incorrect and imperfect information. The final changes will benefit consumers by matching the voluntary authorized ''Product of USA'' and ''Made in the USA'' label claims with the definition that consumers likely expected, *e.g.,* as product being derived from animals born, raised, slaughtered, and processed in the United States.

The benefits for this final rule have not been quantified due to data limitations, and the limitations (some of which are discussed in appendix A) associated with the surveys, LTE experiments, DCEs, and hedonic price modeling. However, the final rule will allow consumers to make informed purchasing decisions, resulting in an increase in consumer benefit and preventing market distortions.

Alternative Regulatory Approaches

We considered the following three alternatives in the analysis for this final rule:

- Alternative 1: Taking no regulatory action by continuing with the existing labeling requirements.
- Alternative 2: The final rule.
- Alternative 3: The final rule, extended compliance period.

TABLE 10—COMPARISON OF THE CONSIDERED ALTERNATIVES

Alternative	Benefits	Cost
1—No Action	No benefit. Misinformation remains	No relabeling costs or increase in recordkeeping costs.

[55] A copy of Appendix A can be found on FSIS' website at: *https://www.fsis.usda.gov/sites/default/files/media_file/documents/Product_of_USA_Appendix.pdf.*

[56] Products without any U.S.-origin claims includes products with no country of origin claim or other country origin claim such as ''Product of Australia.''

[57] FSIS has similar authority under the AMA concerning products receiving voluntary inspection services, as the statute grants the Secretary authority to ''inspect, certify, and identify the class, quality, quantity, and condition of agricultural products when shipped or received in interstate commerce, under such rules and regulations as the Secretary of Agriculture may prescribe, including assessment and collection of such fees as will be reasonable and as nearly as may be to cover the cost of the service rendered, to the end that agricultural products may be marketed to the best advantage, that trading may be facilitated, and that consumers may be able to obtain the quality product which they desire, except that no person shall be required to use the service authorized by this subsection'' (21 U.S.C. 1622(h)(1)).

TABLE 10—COMPARISON OF THE CONSIDERED ALTERNATIVES—Continued

Alternative	Benefits	Cost
2—The Final Rule	More accurate information conveyed more quickly on labels with U.S.-origin claims.	$3.2 million total costs. Relabeling cost $1.3 million. Recordkeeping cost $1.1 million. Market testing cost $0.8 million.
3—Extended Compliance Period.	Reduced benefits because labels with U.S.-origin claims will change at a slower rate and potentially include information that may mislead consumers for an extended period.	$2.6 million total costs. Relabeling cost $0.7 million. Recordkeeping cost $1.1 million. Market testing cost $0.8 million.

Note: Costs are in millions of dollars and annualized at the 7 percent discount rate over 10 years. Numbers may not sum due to rounding.

Alternative 1—Take No Regulatory Action (Baseline)

FSIS considered keeping the current regulations and taking no action. Consumers would be worse off absent the final action. While ''no action'' means the manufacturers currently labeling their products with U.S.-origin claims do not have to relabel or increase recordkeeping activities, and therefore would not incur additional costs, the Agency would fail to address the false impression regarding U.S. origin conveyed by the current ''Product of USA'' labeling requirement. The current claim does not align with consumers' interpretations of what the ''Product of USA'' label claim means.

Therefore, the Agency rejects this alternative.

Alternative 2—The Final Rule

Under this final rule, the authorized claims, ''Product of USA'' and ''Made in the USA'', would only be permitted on the labels of FSIS-regulated products derived from animals born, raised, slaughtered, and processed in the United States. U.S.-origin label claims other than ''Product of USA'' or ''Made in the USA'' would need to include a description of the preparation and processing steps that occurred in the United States upon which the claim is made (as described above). Consumers would benefit from the final changes to the regulations to address the false impression and asymmetric information associated with current U.S.-origin claims.

This is the Agency's preferred alternative.

Alternative 3—The Final Rule, Extended Compliance Period

Alternative 3 would extend the compliance period to 42 months. This alternative reduces both costs and benefits. As shown in Table 11, assuming an extended compliance period of 42-months would provide industry sufficient time to coordinate all required label changes, subsequently reducing annualized relabeling costs by about $0.6 million, as compared to assuming a 24-month compliance period. Recordkeeping and market testing costs would remain the same as alternative 2. The resulting costs would total $2.6 million with relabeling costs of $0.7 million, recordkeeping costs of $1.1 million, and market testing cost of $0.8 million.

However, during this 42-month period, there would be labels with U.S.-origin claims that conform to the current requirements as well as labels that conform to the final new requirements for an extended period. Having U.S.-origin labels that have different, with a mix of old and new, definitions in the marketplace for a prolonged period would increase consumer confusion and market failures.

After the 42-month compliance period, consumers would benefit from the final changes to the regulations to address the false impression and asymmetric information associated with current U.S.-origin claims. Benefits to consumers would be delayed as labels with U.S.-origin claims would change at a slower rate. Therefore, the Agency rejects this alternative.

TABLE 11—TOTAL COSTS 42-MONTH COMPLIANCE

[In millions]

Cost type	Lower	Mean	Upper
Relabeling, One-time	$0.5	$5.0	$17.1
Recordkeeping, Recurring	0.8	1.1	1.7
Market Testing, One-time	3.0	6.3	10.0
Annualized Cost (3% DR, 10 Year)	1.1	2.4	4.7
Annualized Cost (7% DR, 10 Year)	1.2	2.6	5.2

V. Regulatory Flexibility Act Assessment

The FSIS Administrator certifies that, for the purposes of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), this final rule will not have a significant economic impact on a substantial number of small entities in the U.S. Establishments subject to this final rule are classified under the North American Industry Classification System (NAICS) codes 311611-Animal (except Poultry) Slaughter, 311612-Meat Processed from Carcasses, 311615-Poultry Processing, and 311710-Seafood Product Preparation and Packaging.[58] However, not every business under these codes make U.S.-origin claims. To more accurately identify the businesses impacted by this final rule, this analysis used Label Insight Data. Label Insight is a market research firm that collects data on over 80 percent of food, pet, and personal care products in the U.S. retail market. Data are collected mostly from public web sources and company submissions. While Label Insight does not provide information on establishment size or employee counts, FSIS was able to use UPCs and associated brands to estimate the

[58] The Small Business Administration defines a small business in NAICS code 311611- Animal (except Poultry) Slaughter and NAICS code 311612-Meat Processed from Carcasses as having less than 1,000 employees. The NAICS code 311615- Poultry Processing has a small business standard of less than 1,250 employees and NAICS code Seafood Product Preparation and Packaging has a less than 750-employee small business standard.

Small Business Administration (SBA), Table of Small Business Standards, effective March 17, 2023, *https://www.sba.gov/document/support-table-size-standards.*

number of small businesses impacted by the rule. Based on a review of Label Insight data, large brands consistently had over 50 UPCs, while smaller brands consistently had 50 or fewer UPCs. Consequently, FSIS assumed a brand with 50 or fewer UPCs was a small business for the purpose of this analysis.

FSIS estimated that the final rule will impact 1,349 small brands or small businesses. Combined, these 1,349 small businesses have roughly 4,000 labels with U.S.-origin claims. As described above, only a percentage of these labels may need to change as a result of the rule.

FSIS estimated that between 1,000 and 3,000 labels from small business may need changes for the final rule assuming 25, 50, and 75 percent of labels will need to be changed. The average one-time cost estimate for minor label changes is between $874 and $5,043 per label. The expected one-time relabeling cost for 81.5 percent of labels are for minor coordinated changes and are approximately $874 per label. The expected one-time relabeling cost for 18.5 percent of labels are for minor uncoordinated changes, at approximately $5,043 per label.[59]

In addition, businesses will have increased recordkeeping costs. This analysis assumed this recordkeeping will be completed by an operations manager with an estimated hourly cost of $103.24 at the median and a range of wages from $72.46 to $157.427 for 20 minutes, 20 times per year, as described in the Recordkeeping Costs section.[60] [61]

Small businesses may also incur market testing costs. FSIS estimated that 674, with a range between 337 to 1,012, small businesses may conduct market testing, assuming 25, 50, and 75 percent of the 1,349 small businesses conduct market testing. The expected mid-point one-time market testing cost for those small businesses that choose to conduct market testing is $8,035 in 2022 dollars.

The total mid-point cost estimate is $2 million, which is roughly $1,483 per small business ($2 million/1,349 businesses), annualized over 10 years assuming a 7 percent discount rate. Table 12 provides a summary of the estimated total costs to small businesses. FSIS does not have access to proprietary data reflecting the sales volume, including for small businesses voluntarily using U.S.-origin claims, to calculate business profit margins or revenue. However, using data from the U.S. Census Bureau Statistics of U.S. Businesses, FSIS identified small businesses by NAICS codes, which includes the industries affected by the final rule.[62] These small businesses have an average range of revenue of approximately $13 million to $28 million in 2022 dollars based on 2017 receipts adjusted for inflation.[63] The final rule's estimated cost per small business of $1,483 represents 0.005 percent to 0.01 percent of a small business' average revenue.

TABLE 12—TOTAL SMALL BUSINESS COSTS

[In millions of dollars]

Cost type	Lower	Mean	Upper
Relabeling, One-time	$0.6	$3.3	$9.4
Recordkeeping, Recurring	0.7	0.9	1.4
Market Testing, One-time	2.6	5.4	8.6
Annualized Cost (3% DR, 10 Year)	1.1	1.9	3.5
Annualized Cost (7% DR, 10 Year)	1.1	2.0	3.7

VI. Paperwork Reduction Act

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection and recordkeeping requirements included in this final rule have been submitted by the Agency to the Office of Management and Budget (OMB) for approval. FSIS will collect no information associated with this rule until the information collection is approved by OMB.

VII. E-Government Act

FSIS and USDA are committed to achieving the purposes of the E-Government Act (44 U.S.C. 3601, *et seq.*) by, among other things, promoting the use of the internet and other information technologies and providing increased opportunities for citizen access to Government information and services, and for other purposes.

VIII. Executive Order 12988, Civil Justice Reform

This final rule has been reviewed under E.O. 12988, Civil Justice Reform. Under this rule: (1) All State and local laws and regulations that are inconsistent with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) no administrative proceedings will be required before parties may file suit in court challenging this rule.

IX. Executive Order 13175

This rule has been reviewed in accordance with the requirements of E.O. 13175, ''Consultation and Coordination with Indian Tribal Governments.'' E.O. 13175 requires Federal agencies to consult and coordinate with tribes on a government-to-government basis on policies that have tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that have

[59] Mean estimates from the 2014 FDA Label Cost Model were updated to 2022 dollars for inflation. Muth, M., Bradley, S., Brophy, J., Capogrossi, K., Coglaiti, M., & Karns, S. (2015). *2014 FDA labeling cost model.* U.S. Food and Drug Administration.

[60] The time estimates for recordkeeping per business of 20 minutes, 20 times per year is in addition to the current time estimates for record keeping for U.S.-origin claims, under the generic label approval system. Under the generic label approval system, businesses that make products with a U.S.-origin claim are currently estimated to take 15 minutes on average to gather their records, 20 times per year. Consequently, in total, the estimated time for record keeping for businesses that make products with a U.S.-origin claim would amount to 35 minutes, 20 times per year.

[61] The hourly cost includes a wage rate of $51.62 and a benefits and overhead factor of 2. U.S. Bureau of Labor Statistics (BLS) published May 2022, Occupational Employment and Wage Estimates, 11–0000 Management Occupations, 50th (25th–75th percentile).

[62] Census tabulated data by geography, industry, and enterprise employment or receipts size for most U.S. business establishments by 6-digit NAICS. U.S. Census Bureau, 2017 SUSB Annual Datasets by Establishment Industry, March 2020, *https://www.census.gov/data/datasets/2017/econ/susb/2017-susb.html.*

[63] Estimated small business revenue range based on NAICS codes: 311611-Animal (except Poultry) Slaughter (average revenue of $13 million), 311612-Meat Processed from Carcasses (average revenue of $20 million), 311615—Poultry Processing (average revenue of $28 million), and 311710—Seafood Product Preparation and Packaging (average revenue of $22 million). U.S. Census Bureau, 2017 SUSB Annual Datasets by Establishment Industry, March 2020, *https://www.census.gov/data/datasets/2017/econ/susb/2017-susb.html.* Updated for inflation using BLS Consumer Price Index (CPI), All items in U.S. city average, all urban consumers, not seasonally adjusted (CUUR0000SA0 Not Seasonally Adjusted).

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.

FSIS has assessed the impact of this rule on Indian tribes and determined that this rule does not, to our knowledge, have tribal implications that require tribal consultation under E.O. 13175. If a tribe requests consultation, FSIS will work with the Office of Tribal Relations to ensure meaningful consultation is provided where changes, additions, and modifications identified herein are not expressly mandated by Congress.

X. USDA Non-Discrimination Statement

In accordance with Federal civil rights law and USDA civil rights regulations and policies, USDA, its Mission Areas, agencies, staff offices, employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

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USDA is an equal opportunity provider, employer, and lender.

XI. Environmental Impact

Each USDA agency is required to comply with 7 CFR part 1b of the Departmental regulations, which supplements the National Environmental Policy Act regulations published by the Council on Environmental Quality. Under these regulations, actions of certain USDA agencies and agency units are categorically excluded from the preparation of an Environmental Assessment (EA) or an Environmental Impact Statement (EIS) unless the agency head determines that an action may have a significant environmental effect (7 CFR 1b.4 (b)). FSIS is among the agencies categorically excluded from the preparation of an EA or EIS (7 CFR 1b.4 (b)(6)).

FSIS has determined that this final rule, which will establish voluntary labeling requirements for FSIS-regulated products with ''Product of USA,'' ''Made in the USA,'' and similar claims, will not create any extraordinary circumstances that would result in this normally excluded action having a significant individual or cumulative effect on the human environment. Therefore, this action is appropriately subject to the categorical exclusion from the preparation of an environmental assessment or environmental impact statement provided under 7 CFR 1b.4(6) of the U.S. Department of Agriculture regulations.

XII. Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, FSIS will announce this **Federal Register** publication on-line through the FSIS web page located at: *https://www.fsis.usda.gov/federal-register.*

FSIS will also announce and provide a link through the FSIS *Constituent Update,* which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to our constituents and stakeholders. The *Constituent Update* is available on the FSIS web page. Through the web page, FSIS is able to provide information to a much broader, more diverse audience. In addition, FSIS offers an email subscription service which provides automatic and customized access to selected food safety news and information. This service is available at: *https://www.fsis.usda.gov/subscribe.* Options range from recalls to export information, regulations, directives, and notices. Customers can add or delete subscriptions themselves and have the option to password protect their accounts.

List of Subjects

9 CFR Part 317

Food labeling, Food packaging, Meat inspection, Nutrition, Reporting and recordkeeping requirements.

9 CFR Part 381

Poultry inspection, Poultry and poultry products, Reporting and recordkeeping requirements.

9 CFR Part 412

Food labeling, Food packaging, Meat and meat products, Meat inspection, Poultry and poultry products, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, FSIS is amending 9 CFR chapter III as follows:

PART 317—LABELING, MARKING DEVICES, AND CONTAINERS

■ 1. The authority citation for part 317 continues to read as follows:

Authority: 21 U.S.C. 601–695; 7 CFR 2.18, 2.53.

■ 2. Amend § 317.8 by revising paragraph (b)(1) to read as follows:

§ 317.8 False or misleading labeling or practices generally; specific prohibitions and requirements for labels and containers.

* * * * *

(b) * * *

(1) Establishments may only use statements, words, pictures, designs, or devices on the label having geographical significance with reference to a locality other than where the animal from which the product was derived was born, raised, slaughtered, and processed if the statements, words, pictures, designs, or devices are qualified by the word ''style,'' ''type,'' or ''brand,'' as the case may be, in the same size and style of lettering as in the geographical statement, word, picture, design, or device, and accompanied with a prominent qualifying statement identifying the country, State, Territory, or locality, using terms appropriate to effect the qualification. When the word ''style'' or ''type'' is used, there must be a recognized style or type of product

identified with and peculiar to the area represented by the geographical statement, word, picture, design, or device and the product must possess the characteristics of such style or type, and the word ''brand'' shall not be used in such a way as to be false or misleading: Provided, That a geographical statement, word, picture, design, or device which has come into general usage as a trade name and which has been approved by the Administrator as being a generic statement, word, picture, design, or device may be used without the qualifications provided for in this paragraph. The terms ''frankfurter,'' ''vienna,'' ''bologna,'' ''lebanon bologna,'' ''braunschweiger,'' ''thuringer,'' ''genoa,'' ''leona,'' ''berliner,'' ''holstein,'' ''goteborg,'' ''milan,'' ''polish,'' ''italian,'' and their modifications, as applied to sausages, the terms ''brunswick'' and ''irish'' as applied to stews and the term ''boston'' as applied to pork shoulder butts need not be accompanied with the word ''style,'' ''type,'' or ''brand,'' or a statement identifying the locality in which the product is prepared.

* * * * *

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

■ 3. The authority citation for part 381 continues to read as follows:

Authority: 7 U.S.C. 1633, 1901–1906; 21 U.S.C. 451–472; 7 CFR 2.7, 2.18, 2.53.

■ 4. Amend § 381.129 by revising paragraph (b)(2) to read as follows:

§ 381.129 False or misleading labeling or containers.

* * * * *

(b) * * *

(2) Statements, words, pictures, designs, or devices having geographical significance with reference to a particular locality must be made in accordance with § 317.8(b)(1) of this chapter.

* * * * *

PART 412—LABEL APPROVAL

■ 5. The authority citation for part 412 continues to read as follows:

Authority: 21 U.S.C. 451–470, 601–695; 7 CFR 2.18, 2.53.

■ 6. Section 412.3 is added to read as follows:

§ 412.3 Approval of U.S.-origin generic label claims.

(a) The claims ''Product of USA'' and ''Made in the USA'' may be used under generic approval on labels to designate single ingredient products derived from animals born, raised, slaughtered, and processed in the United States.

(b)(1) The claims ''Product of USA'' and ''Made in the USA'' may be used under generic approval on labels to designate multi-ingredient products if:

(i) All ingredients that are produced under FSIS mandatory inspection or voluntary inspection services in the product are derived from animals born, raised, slaughtered, and processed in the United States;

(ii) All other ingredients in the product are of domestic origin; and

(iii) The preparation and processing steps for the multi-ingredient product have occurred in the United States.

(2) For purposes of this paragraph (b), spices and flavorings need not be of domestic origin for claim use, but all other ingredients of the product must be of domestic origin.

(c) Claims other than ''Product of USA'' and ''Made in the USA'' may be used under generic approval on labels to designate the U.S.-origin component of single ingredient and multi-ingredient products' preparation and processing only if the claim includes a description of the preparation and processing steps that occurred in the United States upon which the claim is being made. Such labels must be truthful and not misleading.

(d) Claims may be used under generic approval on labels to designate the U.S. State, Territory, or locality-origin of single ingredient and multi-ingredient products or components of a product's preparation and processing, only if the claim meets the requirements for use of U.S.-origin claims under paragraphs (a) through (c) of this section with regards to the U.S. State, territory, or locality origin.

(e) Display of the U.S. flag, or a U.S. State or territory flag, may be used under generic approval on labels to designate the United States, U.S. State, or U.S. territory origin of single and multi-ingredient products or components of a product's preparation and processing, only if the display of the flag meets the requirements for use of U.S.-origin claims under paragraphs (a) through (d) of this section. For the purposes of the display of a flag that meets the requirements for use of U.S.-origin claims other than ''Product of USA'' and ''Made in the USA'' under paragraph (c) or (d) of this section, the display must be accompanied by a description of the preparation and processing steps that occurred in the United States, or in the U.S. State or territory, upon which the claim is being made.

(f) In addition to the requirements in § 412.2, official establishments using and facilities choosing to use labels that bear the claims ''Product of USA'' or ''Made in the USA'' to designate products of U.S. origin must maintain records to support the U.S.-origin claim. Examples of the types of documentation that may be maintained to support the U.S.-origin claims ''Product of USA'' or ''Made in the USA'' include:

(1) A written description of the controls used in the birthing, raising, slaughter, and processing of the source animals and eggs, and for multi-ingredient products the preparation and processing of all additional ingredients other than spices and flavorings, to ensure that each step complies with paragraphs (a) and (b) of this section.

(2) A written description of the controls used to trace and, as necessary, segregate, from the time of birth through packaging and wholesale or retail distribution, source animals and eggs, all additional ingredients other than spices and flavorings, and resulting products that comply with paragraphs (a) and (b) of this section.

(3) A signed and dated document describing how the product is prepared and processed to support that the claim is not false or misleading.

(g) In addition to the requirements in § 412.2, official establishments using and facilities choosing to use a U.S.-origin label claim other than ''Product of USA'' or ''Made in the USA'' to designate the U.S.-origin preparation and processing steps of a product must maintain records to support the qualified U.S.-origin claim. Examples of the types of documentation that may be maintained to support the qualified U.S.-origin claim include:

(1) A written description of the controls used in each applicable preparation and processing step of source animals and eggs, all additional ingredients other than spices and flavorings, and resulting products to demonstrate that the qualified U.S.-origin claim complies with paragraph (c) or (d) of this section. The described controls may include those used to trace and, as necessary, segregate, during each applicable step, source animals and eggs, all additional ingredients other than spices and flavorings, and resulting products that comply with the U.S.-origin claim from those that do not comply.

(2) A signed and dated document describing how the qualified U.S.-origin claim regarding the preparation and processing steps is not false or misleading.

Done in Washington, DC.

Theresa Nintemann,

Deputy Administrator.

[FR Doc. 2024–05479 Filed 3–15–24; 8:45 am]

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