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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.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA-2022-1028; Airspace
Docket No. 22-ASO-9]

RIN 2120-AA66

Amendment and Revocation of Air Traffic Service (ATS) Routes; Eastern United States

AGENCY: Federal Aviation
Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies VHF Omnidirectional Range (VOR) Federal airways V-5, V-20, V-155, V-241, and V-321; and removes jet routes J-37, J-55, J-79, J-121, J-174, J-191, and J-209. These changes support the VOR Minimum Operation Network (MON) project in the eastern United States.

DATES: Effective date 0901 UTC, April 20, 2023. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order JO 7400.11 and publication of conforming amendments.

ADDRESSES: FAA Order JO 7400.11G, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at www.faa.gov/air_traffic/publications/. For further information, you can contact the Rules and Regulations Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267-8783.

FOR FURTHER INFORMATION CONTACT: Paul Gallant, Rules and Regulations Group, Office of Policy, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267-8783.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would modify the route structure as necessary to preserve the safe and efficient flow of air traffic within the National Airspace System (NAS).

History

The FAA published a notice of proposed rulemaking for Docket No. FAA-2022-1028 in the **Federal Register** (87 FR 52707; August 29, 2022), amending five VOR Federal airways and removing seven jet routes in the eastern United States. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal. No comments were received.

Domestic VOR Federal airways are published in paragraph 6010(a) and jet routes are published in paragraph 2004 of FAA Order JO 7400.11G, dated August 19, 2022, and effective September 15, 2022, which is incorporated by reference in 14 CFR 71.1. The VOR Federal airways and jet routes listed in this document will be subsequently published in or removed from FAA Order JO 7400.11.

Differences From the NPRM

The NPRM proposed, in part, to amend V-20 by removing the airway segments between Tuskegee, AL, and Sugarloaf Mountain, NC. This would result in a gap in the airway from Montgomery, AL, to Barretts Mountain, NC. After further consideration, the FAA decided to retain the segments between Athens, GA, and Barretts Mountain, NC. The purpose of this change is to maintain the east-west airway structure between Athens and Barretts Mountain for navigation while

the supporting navigation aids remain in operation.

Availability and Summary of Documents for Incorporation by Reference

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

The Rule

This action amends 14 CFR part 71 by modifying V-5, V-20, V-155, V-241, and V-321; and by removing jet routes J-37, J-55, J-79, J-121, J-174, J-191, and J-209. The route changes are described below.

V-5: V-5 extends from Pecan, GA, to Appleton, OH. This action removes the segments from the intersection of the Athens, GA 340° and the Electric City, SC 274° radials, to Choo, GA. As amended, V-5 extends, in two parts, from Pecan, GA to Athens, GA; and from New Hope, KY, to Appleton, OH.

V-20: V-20 extends, in two parts, from McAllen, TX, to Palacios, TX; and from Beaumont, TX, to Nottingham, MD. This action removes the segments between Montgomery, AL, and Athens, GA; and removes the segments between the intersection of the Richmond, VA 039° and the Brooke, VA 132° radials, and Nottingham, MD. As amended, V-20 consists of three parts: From McAllen, TX, to Palacios, TX; From Beaumont, TX, to Montgomery, AL; and From Athens, GA to Richmond, VA. In addition the wording, "The airspace within R-4007A and R-4007B is excluded" is removed from the route description because the amended route no longer passes in the vicinity of the restricted areas.

V-155: V-155 extends from Columbus, GA to Brooke, VA. The FAA is removing the segments from Columbus, GA to the intersection of the Columbus 068° and the Colliers, SC, 243° radials (the charted SINCA Fix). The SINCA, GA, Fix is redefined by replacing the Columbus radial with the Dublin, GA, 309°(T)/314°(M) radial. This supports the scheduled decommissioning of the Columbus, GA (CSG), VHF Omnidirectional Range and

Tactical Air Navigational System (VORTAC). As amended, V-155 extends from the intersection of the Dublin, GA, 309°(T)/314°(M) and Colliers, SC 243° radials, to Brooke, VA.

V-241: V-241 extends from Semmes, AL to the intersection of the Columbus, GA 010° and the LaGrange, GA 048° radials (the charted TIROE, GA, Fix). The FAA is removing the segments from Columbus, GA to the TIROE Fix. The intersection of the Eufaula, AL 008°(T)/006°(M) and the LaGrange, GA 160°(T)/159°(M) is used in place of the Columbus, GA (CSG), VORTAC. As amended, V-241 extends from Semmes, AL, to the intersection of the Eufaula, AL 008°(T)/006°(M) and the LaGrange, GA 160°(T)/159°(M) radials.

V-321: V-321 extends from Pecan, GA to Livingston, TN. The FAA is removing the Columbus, GA (CSG), VORTAC from the route and replacing it with the intersection of the Pecan, GA 327°(T)/329°(M) and the LaGrange, GA 160°(T)/159°(M) radials. Otherwise, V-321 continues to extend from Pecan, GA, to Livingston, TN.

J-37: J-37 consists of three parts: from Harvey, LA; to Montgomery, AL; from Lynchburg, VA; to Coyle, NJ; and from Kennedy, NY; to Albany, NY. The FAA is removing the entire route. Area navigation (RNAV) routes Q-22, Q-127, and Q-479 will be published as a partial overlay and replacement of J-37.

J-55: J-55 consists of two parts: from the intersection of the Flat Rock, VA, 212° and Raleigh-Durham, NC, 224° radials; to the intersection of the Hopewell, VA 030° and Nottingham, MD, 174° radials; and from Sea Isle, NJ to Presque Isle, ME. This action removes the entire route. RNAV routes Q-167, Q-220, Q-439, and Q-445 will be published to replace J-55, reflecting current traffic flows in the area.

J-79: J-79 extends from Charleston, SC to Bangor, ME. This action removes the entire route. RNAV route Q-133 will be published as a partial overlay and replacement of J-79.

J-121: J-121 extends from Charleston, SC to the intersection of the Sea Isle, NJ 050° and the Cedar Lake, NJ 091° radials. This action removes the entire route. RNAV route Q-109 will be published as a partial overlay and replacement of J-121.

J-174: J-174 extends from Charleston, SC to the intersection of the Marconi, MA 090° and Nantucket, MA 066° radials. This action removes the entire route. RNAV route Q-97 will be published as a partial overlay and replacement of J-174.

J-191: J-191 extends from Hopewell, VA to Wilmington, NC. This action removes the entire route. RNAV routes

Q-85 and Q-409 will be published to replace J-191, reflecting current traffic flows in this area.

J-209: J-209 extends from Raleigh-Durham, NC to the intersection of the Coyle, NJ 036° and the Robbinsville, NJ, 136° radials. This action removes the entire route. The route is no longer used by air traffic control and no overlay is required. Other Performance Based Navigation structures will be implemented reflecting current traffic flows in this area.

Full descriptions of the above amended routes are listed in the amendments to part 71 set forth below.

FAA Order JO 7400.11, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

Regulatory Notices and Analyses

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

Environmental Review

The FAA has determined that this action of modifying VOR Federal airways V-5, V-20, V-155, V-241, and V-321; and removing jet routes J-37, J-55, J-79, J-121, J-174, J-191, and J-209, in the eastern United States qualifies for categorical exclusion under the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and its implementing regulations at 40 CFR part 1500, and in accordance with FAA Order 1050.1F, Environmental Impacts: Policies and Procedures, paragraph 5-6.5a, which categorically excludes from further environmental impact review rulemaking actions that designate or modify classes of airspace areas, airways, routes, and reporting points (see 14 CFR part 71, Designation of Class A, B, C, D, and E Airspace Areas; Air Traffic Service Routes; and Reporting Points); and paragraph 5-6.5b, which categorically excludes from

further environmental impact review “Actions regarding establishment of jet routes and Federal airways (see 14 CFR 71.15, *Designation of jet routes and VOR Federal airways*). . . .” As such, this action is not expected to cause any potentially significant environmental impacts. In accordance with FAA Order 1050.1F, paragraph 5-2 regarding Extraordinary Circumstances, the FAA has reviewed this action for factors and circumstances in which a normally categorically excluded action may have a significant environmental impact requiring further analysis. The FAA has determined no extraordinary circumstances exist that warrant preparation of an environmental assessment or environmental impact study.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

- 1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

- 2. The incorporation by reference in 14 CFR 71.1 of FAA Order JO 7400.11G Airspace Designations and Reporting Points, dated August 19, 2022, and effective September 15, 2022, is amended as follows:

Paragraph 6010(a) Domestic VOR Federal Airways.

* * * * *

V-5 [Amended]

From Pecan, GA; Vienna, GA; Dublin, GA; to Athens, GA. From New Hope, KY; Louisville, KY; Cincinnati, OH; to Appleton, OH.

* * * * *

V-20 [Amended]

From McAllen, TX, INT McAllen 038° and Corpus Christi, TX, 178° radials; 10 miles 8 miles wide, 37 miles 7 miles wide (3 miles E and 4 miles W of centerline), Corpus Christi; INT Corpus Christi 054° and Palacios, TX, 226° radials; to Palacios. From Beaumont, TX; Lake Charles, LA; Lafayette, LA; Reserve, LA; INT Reserve 084° and Gulfport, MS, 247° radials; Gulfport; Semmes, AL; INT Semmes 048° and

Monroeville, AL, 231° radials; Monroeville; to Montgomery, AL; From Athens, GA; Electric City, SC; Sugarloaf Mountain, NC; Barretts Mountain, NC; South Boston, VA; to Richmond, VA. The airspace on the main airway above 14,000 feet MSL from McAllen to 49 miles northeast and the airspace within Mexico is excluded.

* * * * *

V-155 [Amended]

From INT Dublin, GA 309°(T)/314°(M) and Colliers, SC, 243° radials; Colliers; Chesterfield, SC; Sandhills, NC; Raleigh-Durham, NC; Lawrenceville, VA; INT Lawrenceville 034° and Flat Rock, VA, 171° radials; Flat Rock; to Brooke, VA. The airspace within R-6602A is excluded.

* * * * *

V-241 [Amended]

From Semmes, AL, via Crestview, FL; INT Crestview 076° and Wiregrass, AL, 232° radials; Wiregrass; Eufaula, AL; to INT Eufaula, AL 008°(T)/006° (M) and LaGrange, GA, 160°(T)/159°(M) radials.

* * * * *

V-321 [Amended]

From Pecan, GA, via INT Pecan 327°(T)/329°(M) and LaGrange, GA, 160°(T)/159°(M) radials; LaGrange; INT LaGrange 342° and Gadsden, AL, 124° radials; Gadsden; INT Gadsden 333° and Rocket, AL, 149° radials; Rocket, Shelbyville, TN; to Livingston, TN.

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Paragraph 2004 Jet Routes.

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J-37 [Removed]

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J-55 [Removed]

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J-79 [Removed]

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J-121 [Removed]

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J-174 [Removed]

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J-191 [Removed]

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J-209 [Removed]

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Issued in Washington, DC, on January 17, 2023.

Brian Konie,

Acting Manager, Airspace Rules and Regulations.

[FR Doc. 2023-01135 Filed 1-20-23; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA-2020-0249; Airspace Docket No. 20-ACE-2]

RIN 2120-AA66

Establishment of Class E Airspace; Ness City, KS

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace extending upward from 700 feet above the surface at Ness City Municipal Airport, Ness City, KS. This action is the result of new public instrument procedures being developed at this airport.

DATES: Effective 0901 UTC, April 20, 2023. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

ADDRESSES: FAA Order 7400.11G, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at www.faa.gov/air_traffic/publications/. For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267-8783.

FOR FURTHER INFORMATION CONTACT:

Jeffrey Claypool, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222-5711.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it establishes Class E airspace extending upward from 700 feet above the surface at Ness City

Municipal Airport, Ness City, KS, to support instrument flight rule operations at this airport.

History

The FAA published a notice of proposed rulemaking in the **Federal Register** (85 FR 27181; May 7, 2020) for Docket No. FAA-2020-0249 to establish Class E airspace extending upward from 700 feet above the surface at Ness City Municipal Airport, Ness City, KS. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Class E airspace designations are published in paragraph 6005 of FAA Order 7400.11G, dated August 19, 2022, and effective September 15, 2022, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the FAA Order JO 7400.11.

Availability and Summary of Documents for Incorporation by Reference

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

The Rule

This amendment to 14 CFR part 71 establishes Class E airspace extending upward from 700 feet above the surface within a 6.4-mile radius of the Ness City Municipal Airport, Ness City, KS.

This action is necessary due to new public instrument procedures being developed at this airport.

FAA Order 7400.11, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. 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. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

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

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11G, Airspace Designations and Reporting Points, dated August 19, 2022, and effective September 15, 2022, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

ACE KS E5 Ness City, KS [Establish]

Ness City Municipal Airport, KS
(Lat 38°28'26" N, long. 99°54'33" W)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of Ness City Municipal Airport.

Issued in Fort Worth, Texas, on January 17, 2023.

Martin A. Skinner,

*Acting Manager, Operations Support Group,
ATO Central Service Center.*

[FR Doc. 2023–01058 Filed 1–20–23; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2022–1351; Airspace
Docket No. 22–ASW–22]

RIN 2120–AA66

Revocation of Class E Airspace; Marfa, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action removes the Class E airspace at Marfa, TX. This action is due to the closure of the airport.

DATES: Effective 0901 UTC, April 20, 2023. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order JO 7400.11 and publication of conforming amendments.

ADDRESSES: FAA Order JO 7400.11G, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at www.faa.gov/air_traffic/publications/. For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783.

FOR FURTHER INFORMATION CONTACT: Jeffrey Claypool, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5711.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the

safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it removes the Class E airspace extending upward from 700 feet above the surface at Alta Vista Ranch Airport, Marfa, TX, due to the closure of the airport.

History

The FAA published a notice of proposed rulemaking in the **Federal Register** (87 FR 66975; November 7, 2022) for Docket No. FAA–2022–1351 to remove the Class E airspace at Marfa, TX. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Class E airspace designations are published in paragraph 6005 of FAA Order JO 7400.11G, dated August 19, 2022, and effective September 15, 2022, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in FAA Order JO 7400.11.

Availability and Summary of Documents for Incorporation by Reference

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

The Rule

This amendment to 14 CFR part 71 removes the Class E airspace extending upward from 700 feet above the surface at Alta Vista Ranch Airport, Marfa, TX.

This action is the result of the closure of the airport.

FAA Order JO 7400.11, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. 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. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

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

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order JO 7400.11G, Airspace Designations and Reporting Points, dated August 19, 2022, and effective September 15, 2022, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

ASW TX E5 Marfa, Alta Vista Ranch Airport, TX [Remove]

Issued in Fort Worth, Texas, on January 17, 2023.

Martin A. Skinner,

Acting Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2023–01055 Filed 1–20–23; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 31467; Amdt. No. 4043]

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 January 23, 2023. 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 January 23, 2023.

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, email fr.inspection@nara.gov or go to: <https://www.archives.gov/federal-register/cfr/ibr-locations.html>.

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) 954–4164.

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 part 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, airmen 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 typed 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 Airmen (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 January 6, 2023.

Thomas J. Nichols,

Manager, Aviation Safety, Flight Standards Service, 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 23 February 2023

Mojave, CA, Mojave Air And Space Port, Takeoff Minimums and Obstacle DP, Amdt 3
 Novato, CA, KDVO, RNAV (GPS) RWY 13, Amdt 2
 Sacramento, CA, KSMF, ILS OR LOC RWY 17L, ILS RWY 17L (SA CAT II), Amdt 4D
 Sacramento, CA, KSMF, ILS OR LOC RWY 17R, ILS RWY 17R (SA CAT I), ILS RWY 17R (CAT II), ILS RWY 17R (CAT III), Amdt 16E
 Sacramento, CA, KSMF, RNAV (GPS) Y RWY 17L, Amdt 3B
 Sacramento, CA, KSMF, RNAV (GPS) Y RWY 17R, Amdt 2D
 Sacramento, CA, KSMF, RNAV (GPS) Y RWY 35L, Amdt 3A
 Sacramento, CA, KSMF, RNAV (GPS) Y RWY 35R, Amdt 2A
 Marianna, FL, KMAI, NDB–C, Amdt 4C, CANCELED
 Marianna, FL, KMAI, VOR–B, Amdt 5B, CANCELED
 Atlanta, GA, KATL, ILS OR LOC RWY 27R, Amdt 8
 Atlanta, GA, KATL, ILS PRM RWY 27R (Close Parallel), Amdt 4
 Lihue, HI, PHLI, ILS OR LOC RWY 35, Amdt 7
 Lihue, HI, PHLI, RNAV (GPS) RWY 17, Orig-B
 Lihue, HI, PHLI, RNAV (GPS) Y RWY 21, Orig-C
 Beaver Island, MI, KSJX, RNAV (GPS) RWY 9, Orig
 Kalamazoo, MI, KAZO, RADAR 1, Amdt 9B, CANCELED

Manistee, MI, KMBL, RNAV (GPS) RWY 10, Orig-D
 Manistee, MI, KMBL, RNAV (GPS) RWY 28, Orig-D
 Kansas City, MO, KMCI, ILS OR LOC RWY 1R, ILS RWY 1R (SA CAT I), ILS RWY 1R (CAT II), ILS RWY 1R (CAT III), Amdt 6
 Helena, MT, KHLN, COPTER VOR 258, Orig-A
 Helena, MT, KHLN, DIVIDE TWO, Graphic DP
 Helena, MT, KHLN, ILS Y OR LOC Y RWY 27, Amdt 4
 Helena, MT, KHLN, ILS Z OR LOC Z RWY 27, Amdt 3
 Helena, MT, KHLN, LOC BC–C, Amdt 6
 Helena, MT, KHLN, RNAV (GPS) X RWY 27, Amdt 2
 Helena, MT, KHLN, RNAV (GPS) Y RWY 9, Amdt 2
 Helena, MT, KHLN, RNAV (RNP) Y RWY 27, Amdt 1
 Helena, MT, KHLN, RNAV (RNP) Z RWY 9, Amdt 1
 Helena, MT, KHLN, RNAV (RNP) Z RWY 27, Amdt 1
 Helena, MT, KHLN, Takeoff Minimums and Obstacle DP, Amdt 10A
 Helena, MT, KHLN, VOR–A, Amdt 16
 Helena, MT, KHLN, VOR–B, Amdt 8
 Winnemucca, NV, KWMC, VOR RWY 14, Amdt 1, CANCELED
 Llano, TX, KAQO, RNAV (GPS) RWY 17, Amdt 1
 Llano, TX, KAQO, RNAV (GPS) RWY 35, Amdt 1
 Hoquiam, WA, KHQM, ILS OR LOC RWY 24, Amdt 4D
 Hoquiam, WA, KHQM, VOR RWY 6, Amdt 16

[FR Doc. 2023–01039 Filed 1–20–23; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 31468; Amdt. No. 4044]

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 January 23, 2023. 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 January 23, 2023.

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, email fr.inspection@nara.gov or go to: <https://www.archives.gov/federal-register/cfr/ibr-locations.html>.

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) 954–4164.

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 Airmen (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, airmen 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 January 6, 2023.

Thomas J. Nichols,

Manager, Aviation Safety, Flight Standards Service, 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;
§ 97.31RADAR SIAPs; § 97.33 RNAV

SIAPs; and § 97.35 COPTER SIAPs,
Identified as follows:

* * * *Effective Upon Publication*

AIRAC date	State	City	Airport	FDC No.	FDC date	Subject
23-Feb-23 ...	WI	Milwaukee	General Mitchell Intl	2/2415	11/16/22	RNAV (GPS) RWY 13, Amdt 1.
23-Feb-23 ...	WI	Milwaukee	General Mitchell Intl	2/2416	11/16/22	RNAV (GPS) RWY 31, Amdt 1.
23-Feb-23 ...	CA	Mojave	Mojave Air & Space Port/ Rutan Fld.	2/2768	12/21/22	RNAV (GPS) RWY 30, Orig.
23-Feb-23 ...	KS	Clay Center	Clay Center Muni	2/3239	11/3/22	RNAV (GPS) RWY 17, Amdt 1.
23-Feb-23 ...	OK	Oklahoma City	Will Rogers World	2/5444	12/14/22	ILS OR LOC RWY 35R, ILS RWY 35R (SA CAT I), ILS RWY 35R (CAT II), Amdt 10E. ILS OR LOC RWY 2, Amdt 1.
23-Feb-23 ...	AR	Benton	Saline County Rgnl	2/8297	12/21/22	ILS OR LOC RWY 31, Amdt 2A.
23-Feb-23 ...	MN	Fergus Falls	Fergus Falls Muni/Einar Mickelson Fld.	2/8372	12/22/22	
23-Feb-23 ...	OK	Ardmore	Ardmore Downtown Exec	2/8377	12/22/22	RNAV (GPS) RWY 35, Orig-D.
23-Feb-23 ...	NE	Lincoln	Lincoln	2/8382	12/22/22	RNAV (GPS) RWY 32, Orig-B.
23-Feb-23 ...	KY	Louisville	Bowman Fld	2/8385	12/22/22	RNAV (GPS) RWY 24, Amdt 3A.
23-Feb-23 ...	KY	Louisville	Bowman Fld	2/8387	12/22/22	NDB RWY 33, Amdt 16D.
23-Feb-23 ...	KY	Mount Sterling	Mount Sterling/Montgomery County.	2/8389	12/22/22	RNAV (GPS) RWY 21, Orig-B.
23-Feb-23 ...	OK	Okmulgee	Okmulgee Rgnl	2/8472	12/21/22	VOR-A, Amdt 1A.
23-Feb-23 ...	OK	Okmulgee	Okmulgee Rgnl	2/8473	12/21/22	RNAV (GPS) RWY 36, Orig-A.
23-Feb-23 ...	FL	Titusville	Space Florida Launch And Landing Facility.	2/8720	12/16/22	RNAV (GPS) RWY 33, Orig.

[FR Doc. 2023-01037 Filed 1-20-23; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF JUSTICE

28 CFR Part 79

[CIV Docket No.161]

Radiation Exposure Compensation Act: Procedures for Claims Submitted at the Revised Statutory Filing Deadline

AGENCY: Civil Division, Department of Justice.

ACTION: Notification of procedures.

SUMMARY: The Department of Justice (“the Department”) is publishing this document to update the public of the Department’s procedures for filing claims under the Radiation Exposure Compensation Act (“RECA”) at the revised statutory filing deadline. This document supersedes the Department’s notification of Procedures for Claims Submitted at the Statutory Filing Deadline (Dec. 9, 2020).

DATES: The policy is effective on January 23, 2023.

FOR FURTHER INFORMATION CONTACT: Gerard W. Fischer (Assistant Director), 202-616-4090, Constitutional and Specialized Tort Litigation Section, Torts Branch, Civil Division, Department of Justice, Washington, DC 20530.

SUPPLEMENTARY INFORMATION:

Overview

The RECA Extension Act of 2022 (“the Extension Act”), Public Law 117-139, requires that the RECA Trust Fund shall terminate on the date that is 2 years after the law’s date of enactment, June 7, 2022. In addition, a claim to which RECA applies shall be barred unless the claim is filed not later than 2 years after the date of enactment of the RECA Extension Act of 2022. The statute is silent with respect to whether the RECA Trust Fund will be available to pay timely, meritorious claims received at the filing deadline.

The Department is publishing this document to articulate its policy that all timely filed, meritorious RECA claims shall be paid. This policy is consistent with the statutory requirements that the Department determine eligibility within 12 months of filing and pay meritorious claims within 6 weeks of approval. The amended statutory filing deadline, June 8, 2024, is a Saturday. Accordingly, claims that bear a date of June 10, 2024, on the postmark or stamp by another commercial carrier shall be deemed timely filed upon receipt by the Radiation Exposure Compensation Program. The Department will return untimely claims and will not accept electronic submissions. Documentation to establish the eligibility of any potential beneficiary of an awarded claim must be provided by June 10, 2024, or within the 12-month determination period provided by the Act, or the award shall be deemed rejected.

Background

Codified at 42 U.S.C. 2210 note, the Radiation Exposure Compensation Act (“RECA”) offers an apology and monetary compensation to individuals (or their survivors) who have contracted certain cancers and other serious diseases following exposure to radiation released during above-ground atmospheric nuclear weapons tests, or following their employment in the uranium production industry during specified periods. This unique program was designed by Congress as an alternative to litigation in that the statutory criteria do not require claimants to establish causation. Rather, if the claimant can satisfy the requirements outlined in the statute, which include demonstrating that he or she contracted a compensable disease after working or residing in a designated location for a specific period of time, he or she qualifies for compensation.

Congress charged the Attorney General with authority to establish filing procedures under RECA, as well as responsibility for adjudicating claims under the Act, and authorizing payment in those claims which are determined to be qualified for compensation. The Attorney General delegated these functions to the Constitutional and Specialized Tort Litigation Section of the Torts Branch of the Civil Division of the United States Department of Justice.

The RECA Extension Act of 2022

The RECA Extension Act of 2022 (“the Extension Act”), Public Law 117-139, was signed into law on June 7, 2022. The Extension Act requires that

the RECA Trust Fund shall terminate on the date that is 2 years after the law's date of enactment. In addition, a claim to which RECA applies shall be barred unless the claim is filed not later than 2 years after the date of enactment of the Extension Act. Accordingly, the RECA Trust Fund terminates on June 8, 2024. The statute of limitations for new RECA claims tolls on that date. The Extension Act is silent regarding whether the RECA Trust Fund will be available for meritorious claims submitted at the statutory filing deadline.

Statement of Policy

The Department is publishing this document to articulate its policy that all timely filed, meritorious RECA claims against the RECA Trust Fund will be paid, consistent with the requirements under RECA. Several stakeholders have expressed concern that the termination of the RECA Trust Fund on the deadline for claims may render it unavailable to pay meritorious claims. Once a claim is filed with the Department, RECA imposes statutory obligations for the Department to adjudicate the claim within 12 months, and issue payment on any approved claims within 6 weeks of approval. RECA Sec. 6(d). These statutory obligations will require the RECA Trust Fund to remain available until the Department has determined entitlement for all timely filed claims, including claims filed on the statutory filing deadline.

In addition, several stakeholders have noted that the revised statutory filing deadline, June 8, 2024, is a Saturday. The Department shall deem claims that bear a date of June 10, 2024, on the postmark or stamp by another commercial carrier, timely filed upon their receipt by the Radiation Exposure Compensation Program. This policy is consistent with methods for computing time set forth at Federal Rule of Civil Procedure 6(a), and with standard agency practice where a deadline falls on a weekend or holiday establishing the next business day as the deadline for submissions. The postmark requirement is consistent with the Department's existing procedures for submitting claims at 28 CFR 79.71(a) and (b), requiring a claim to be submitted in writing on a standard claim form and mailed to the address of the Radiation Exposure Compensation Program. In addition, this policy allows claimants to affirmatively establish the timely filing of their claim by obtaining a postmark or other mailing date stamp consistent with the filing deadline.

The regulation at § 79.71(a) requires that claims be mailed to the Department.

Accordingly, the Department will not accept electronically submitted claims.

Claims bearing a date on and after June 11, 2024, as indicated by the postmark or stamp by another commercial carrier, shall be returned to the submitting party due to untimely filing. Claims returned due to untimely filing will include a letter from the Radiation Exposure Compensation Program indicating the Department is barred by statute from reviewing the claim or awarding compensation.

This policy applies to all claims received at the filing deadline, including the resubmission of a previously denied claim under Sec. 8(b) of RECA. Resubmissions of previously denied claims bearing a postmark or stamp by another commercial carrier dated June 11, 2024, or later shall be returned due to untimely filing.

For timely filed claims in which a share of the compensation award is held in trust pending documentation to establish the eligibility of a potential beneficiary, such shares of compensation shall be deemed rejected consistent with 28 CFR 79.75(b) if sufficient documentation to establish the eligibility of the potential beneficiary is not received by June 10, 2024, or within the 12-month determination period provided by the Act, whichever falls later.

This document is intended to inform the public of the Department's policy regarding procedures for filing claims at the statutory deadline. The Department will post this document to its RECA website at www.justice.gov/civil/common/reca, and continue to announce this policy at outreach events and in communications with claimants, counsel, and support groups.

This document supersedes the Department's notification of Procedures for Claims Submitted at the Statutory Filing Deadline, 85 FR 79118 (Dec. 9, 2020).

Dated: January 12, 2023.

C. Salvatore D'Alessio, Jr.,

Director, Torts Branch, Civil Division.

[FR Doc. 2023-00865 Filed 1-20-23; 8:45 am]

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DEPARTMENT OF THE TREASURY

Financial Crimes Enforcement Network

31 CFR Part 1010

RIN 1506-AB42

Imposition of Special Measure Prohibiting the Transmittal of Funds Involving Bitzlato

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

ACTION: Order.

SUMMARY: FinCEN is issuing an order, pursuant to the Combating Russian Money Laundering Act, as amended by the National Defense Authorization Act for Fiscal Year 2022, to prohibit certain transmittals of funds (as defined in this order) by any covered financial institution involving Bitzlato Limited (Bitzlato), a financial institution operating outside of the United States determined to be of a primary money laundering concern in connection with Russian illicit finance.

DATES: This action is effective February 1, 2023.

FOR FURTHER INFORMATION CONTACT: The FinCEN Resource Center, 1-800-767-2825 or electronically at frc@fincen.gov.

SUPPLEMENTARY INFORMATION:

I. Summary of Order

This order: (1) sets forth FinCEN's determination that Bitzlato Limited (Bitzlato), a virtual asset service provider (VASP) incorporated in the Hong Kong Special Administrative Region of the People's Republic of China (Hong Kong), is a financial institution operating outside of the United States that is of primary money laundering concern¹ in connection with Russian illicit finance; and (2) prohibits certain transmittals of funds by any domestic financial institution or involving Bitzlato by any covered financial institution. Bitzlato, a convertible virtual currency (CVC) exchanger (a type of VASP) with significant operations in Russia that offers exchange and Peer-to-Peer (P2P) services, is a financial institution of primary money laundering concern in connection with Russian illicit finance, namely, through: (1) its facilitation of deposits and funds transfers by Russian

¹ The application of FinCEN's authorities in this order is specific only to section 9714 of the Combating Russian Money Laundering Act. It is not intended to reflect the applicability of, or obligations under, any provision of the Bank Secrecy Act (BSA) or its implementing regulations, and FinCEN has not considered the extent to which Bitzlato does business in the United States.

ransomware groups² or affiliates, such as Conti;³ and (2) its facilitation of transactions with Russian darknet markets on behalf of both darknet customers and darknet vendors.

II. Background

A. Statutory Provisions

Section 9714(a) of the Combating Russian Money Laundering Act, as amended by section 6106(b) of the National Defense Authorization Act for Fiscal Year 2022 (hereafter section 9714(a)),⁴ provides, in relevant part, that should the Secretary of the Treasury determine reasonable grounds exist for concluding one or more financial institutions operating outside of the United States is of primary money laundering concern in connection with Russian illicit finance, the Secretary, by order, regulation, or otherwise as permitted by law may require domestic financial institutions and domestic financial agencies to take 1 or more of the special measures described in 31 U.S.C. 5318A(b)⁵ or prohibit, or impose conditions upon, certain transmittals of funds (to be defined by the Secretary) by any domestic financial institution or domestic financial agency, if such transmittal of funds involves any such institution, The authority of the Secretary of the Treasury (the Secretary) to administer both section 9714(a) and the Bank Secrecy Act (BSA) has been delegated to FinCEN.⁶

² A ransomware “strain” is the specific kind of malware that encrypts or exfiltrates data from a victim in order to perpetrate cyber extortion. The developers and owners of a strain are referred to as a ransomware “gang” or “group,” and may use a strain for their own extortion activities or lease access to the strain to other illicit actors (affiliates) for use in a “Ransomware as a Service” (RaaS) model. As a specific strain becomes less effective or more detectable, the group may develop a new strain to continue its business. For example, “Conti v2” is the second strain developed by the Conti ransomware group, the first of which is “Conti.” A ransomware actor who has used both the Conti strain and the Phobos strain in their attacks is both a Conti and a Phobos affiliate.

³ As noted above, in fn. 3, Conti refers to both a criminal group, the eponymous ransomware strains it spawned, and other affiliated actors.

⁴ Section 9714 (as amended) can be found in a note to 31 U.S.C. 5318A.

⁵ 31 U.S.C. 5318A of the United States Code grants the Secretary the authority, upon finding that reasonable grounds exist for concluding that one or more financial institutions operating outside of the United States is of primary money laundering concern, to require domestic financial institutions and domestic financial agencies to take certain “special measures.”

⁶ Pursuant to Treasury Order 180–01 (January 14, 2020), the authority of the Secretary of the Treasury to administer the BSA, including but not limited to 31 U.S.C. 5318A, has been delegated to the Director of FinCEN. On August 11, 2022, and in accordance with Treasury Order 101–05 (September 20, 2022) and 31 U.S.C. 321(b), Treasury’s Under Secretary

Special measures one through four of section 5318A(b), commonly known as section 311 of the USA PATRIOT Act, describe additional recordkeeping, information collection, and reporting requirements that the Secretary may impose on covered U.S. financial institutions. The fifth special measure, codified at 31 U.S.C. 5318A(b)(5), allows the Secretary, in consultation with the Secretary of State, the Attorney General, and the Chairman of the Board of Governors of the Federal Reserve System, to prohibit, or impose conditions upon, the opening or maintaining in the United States of correspondent or payable-through accounts by any domestic financial institution or domestic financial agency for, or on behalf of, a foreign banking institution, if such correspondent account or payable-through account involves one or more financial institutions operating outside of the United States that the Secretary has found to be of primary money laundering concern.

B. Bitzlato

According to its website, Bitzlato is a “modern company working in the field of blockchain technologies and [CVC].”⁷ It was previously known as ChangeBot. Bitzlato is a Russian-affiliated CVC exchanger—a category of VASP—that offers exchange and P2P services, allowing users to exchange Bitcoin (BTC), Ether (ETH), Bitcoin Cash (BCH), Litecoin (LTC), Dash (DASH), Tether (USDT), Monolith Ruble (MCR) and Dogecoin (DOGE) without intermediaries and hidden commissions.

As set out on its website, Bitzlato is an online platform that provides exchange and P2P services. Through its exchange services, Bitzlato organizes “trading for digital assets, their derivatives and other market instruments” with “[t]rading conducted via standard contracts or orders.”⁸ In parallel, through its P2P services, Bitzlato operates as “an advertising board for digital assets traders” offering wallet, escrow and other related services

associated with P2P exchanges.⁹ Bitzlato further notes that its P2P services include arranging “storage of digital assets . . . to ensure and guarantee the execution of transactions between registered users” and that it retains the ability to “freeze [a user’s] digital asset wallet,” indicating that Bitzlato has custody of its users’ digital wallets and the CVC held in those accounts.¹⁰

In light of those activities, Bitzlato is a financial institution within the meaning of section 9714(a). Section 9714(a) does not expressly define the term “financial institution.” However, FinCEN has long defined that term to apply to foreign and domestic “money transmitters”, including persons that accept and transmit value that substitutes for currency, such as CVC.¹¹ CVC exchangers, such as Bitzlato, are “money transmitters,” and therefore, financial institutions within the meaning of section 9714(a).

Based on public and non-public information available to FinCEN, Bitzlato operates outside the United States and, although identified as “registered under the laws of Hong Kong,” Bitzlato has significant ties to and connections with Russia. Under “Section 1. Terms and Definitions” in Bitzlato’s “Terms of Service” page on its website, Bitzlato is identified as “registered under the laws of Hong Kong” and “located at Unit 617, 6/F, 131–132 Connaught Road West, Solo workshops, Hong Kong.”¹² A review of publicly available material, however, shows that Bitzlato’s actual location of operation, its employees, and a job opening are in Russia, with job descriptions written in Russian. Indeed, a study performed by a blockchain analysis company expressly identifies Bitzlato as having a presence in Moscow City (the financial district of Moscow, Russia) during the period between 2019 and 2021,¹³ and FinCEN has found no information on current or former employees or positions in Hong Kong.

⁹ *Id.*

¹⁰ *Id.*

¹¹ See 31 U.S.C. 5312; 31 CFR 1010.100(t)(3), 1010.100(ff), 1010.605(f)(iv); see also FIN–2019–G001, “Application of FinCEN’s Regulations to Certain Business Models Involving Convertible Virtual Currencies” (May 9, 2019); FIN–2013–G001, “Application of FinCEN’s Regulations to Persons Administering, Exchanging, or Using Virtual Currencies” (March 18, 2013).

¹² Bitzlato, <https://bitzlato.com/terms-of-service-bitzlato/> (last accessed January 2022).

¹³ Chainalysis, “The 2022 Crypto Crime Report,” at 128 (February 2022).

for Terrorism & Financial Intelligence re-delegated to the Director of FinCEN the authority of the Secretary under section 9714.

⁷ Unless noted otherwise, all references to Bitzlato’s official website, web page, or policies are sourced from pages and links accessed via <https://bitzlato.com>, including <https://bitzlato.com/terms-of-service-bitzlato/>, <https://bitzlato.com/anti-money-laundering-policy-and-know-your-client-policy/>, and https://bitzlato.com/knowledgebase/how_to_buy_cryptocurrency/ (last accessed January 2023).

⁸ Bitzlato, <https://bitzlato.com/terms-of-service-bitzlato/> (last accessed January 2023).

III. Finding That Bitzlato Is a Financial Institution Operating Outside of the United States of Primary Money Laundering Concern in Connection With Russian Illicit Finance

Based on public and non-public information available to FinCEN, FinCEN finds that reasonable grounds exist for concluding that Bitzlato, a P2P CVC exchanger with significant operations in Russia, is a financial institution of primary money laundering concern in connection with Russian illicit finance, namely, through: (1) its facilitation of deposits and funds transfers by Russian ransomware groups or affiliates, such as Conti; and (2) its facilitation of transactions with Russian darknet markets on behalf of both darknet customers and darknet vendors.

A. Bitzlato Is Used To Facilitate Processing and Laundering Proceeds From Ransomware Attacks

1. Background on Ransomware

Ransomware is a form of malicious software (malware) used by an attacker to block access to a computer system or data, often by encrypting data or programs on information technology (IT) systems. Its purpose is to extort ransom payments from victims in exchange for decrypting the information, restoring victims' access to their systems or data, and/or not disclosing or destroying data or programs on IT systems. Ransomware payments are made most often via CVC, which are preferred by ransomware attackers for their ability to obscure the attackers' identities, thus aiding in the attackers' ability to launder their criminal proceeds and continue attacking victims.¹⁴

According to open source reporting, ransomware attacks have increased exponentially over the last several years, with an estimated 300 million attempted attacks in the first half of 2021 alone,¹⁵ including attacks against U.S. entities and institutions. These attacks have destabilized private businesses, healthcare facilities, school districts, and critical infrastructure—including domestic energy distribution, such as in the 2021 Colonial Pipeline attack,¹⁶ and food supply chains, such

as in the 2021 JBS meatpacking plant attack.¹⁷ The U.S. government has long engaged on efforts to counter the threat of ransomware, and on April 1, 2015, the President issued Executive Order (E.O.) 13694 (“Blocking the Property of Certain Persons Engaging in Significant Malicious Cyber-Enabled Activities”), in which he declared a national emergency to deal with the threat of the “increasing prevalence and severity of malicious cyber-enabled activities originating from, or directed by persons located, in whole or in substantial part, outside the United States [that] constitute an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States.”¹⁸

In 2021, roughly 74 percent of ransomware revenue, or over \$400 million worth of CVC, went to strains highly likely to be affiliated with Russian organizations. Blockchain analysis combined with web traffic data further revealed that most of the extorted funds from the ransomware attacks were laundered through services primarily catering to Russian users.¹⁹

The media have reported on banks and stock exchanges being targets for ransomware attacks.²⁰ Further, the U.S. financial system is being used to send significant amounts of U.S. funds as ransom payments to foreign actors—both cybercriminals and nation-state actors. Consequently, ransomware attacks are a direct threat to the U.S. economy, to its citizens, and to its national security. Moreover, the threat of ransomware is not limited to the United States, as ransomware attacks are on the rise across the globe, posing a significant threat to governments, businesses, and institutions on several continents.

Although ransomware actors and darknet markets are not always state-affiliated, the notorious ransomware group Conti has significant connections to Russia and pledged allegiance to Russia on February 25, 2022. Further, the Hydra darknet market almost entirely catered to Russian customers and illicit goods and service providers before it was shut down by law enforcement in April 2022. The illicit gains from ransomware attacks can often be traced back to Russian-affiliated

exchanges and darknet markets, representing the laundering of victim payments by Russian and Russia-affiliated actors through Russian and Russia-affiliated services. As such, ransomware is a conduit for Russian illicit finance.

2. Bitzlato's Ransomware Connections

Bitzlato plays a critical role in facilitating transactions for the Conti ransomware group and other global ransomware actors, including actors that operate out of Russia. As a result, FinCEN assesses that Bitzlato serves as a VASP that ultimately enables the profitability of ransomware attacks and, at least in the case of Conti, advances the political and economic destabilization interests of the Government of Russia.

a. Conti Ransomware Group

Conti, a notorious Ransomware-as-a-Service (RaaS) group and the eponymous strains of ransomware it offers as a service to affiliated criminals for their use, emerged in December 2019.²¹ Although most such groups take steps to obfuscate their connections to Russia and Russian illicit finance, Conti did not. To the contrary, on February 25, 2022, Conti pledged allegiance to the Government of Russia and vowed to retaliate against international state actors for their support of the Government of Ukraine amidst the Russian invasion.²² Further, a cache of 60,000 leaked chat messages and files from Conti appears to link Conti to the Russian state, including the Russian Federal Security Service.²³

FinCEN has documented numerous transactions between Conti-associated CVC addresses and Bitzlato.

b. Other Ransomware Groups

Separately, based on blockchain analysis, other ransomware groups have used Bitzlato to facilitate transactions involving ransomware, including ransomware groups based in or linked to Russia. For example, blockchain analysis has identified transactions involving Bitzlato and: (1) Chatex, a VASP designated by Treasury's Office of Foreign Assets Control (OFAC) for facilitating financial transactions for ransomware actors; and (2) the RaaS group DarkSide, a Russian-speaking

¹⁴ See, e.g., FIN-2021-A004, “Advisory on Ransomware and the Use of the Financial System to Facilitate Ransom Payments” (November 8, 2021), available at https://www.fincen.gov/sites/default/files/advisory/2021-11-08/FinCEN%20Ransomware%20Advisory_FINAL_508_.pdf.

¹⁵ “Mid-year Update 2021 Cyber Threat Report: Cyber threat intelligence for navigating today's business reality,” *Sonicwall*.

¹⁶ Bogue, Jacob. “Colonial Pipeline CEO says paying \$4.4 million ransom was the right thing to

do for the country,” *Washington Post* (May 19, 2021).

¹⁷ “Meatpacker JBS says it paid equivalent of \$11 mln in ransomware attack,” *Reuters* (June 10, 2021).

¹⁸ This E.O. was amended on December 28, 2016, pursuant to E.O. 13757.

¹⁹ Chainalysis, “The 2022 Crypto Crime Report,” at 123 (February 2022).

²⁰ Egan, Matt. “Banks and stock exchanges are even bigger targets for ransomware attacks,” *CNN* (May 12, 2021).

²¹ Abrams, Lawrence. “Conti ransomware shows signs of being Ryuk's successor,” *Bleeping Computer* (July 9, 2020).

²² Bing, Christopher. “Russia-based ransomware group Conti issues warning to Kremlin foes,” *Reuters* (February 25, 2022).

²³ Burgess, Matt. “After Declaring Support for Russian Invasion, Conti Ransomware Gang Hit With Data Leak,” *Wired* (March 18, 2022).

group responsible for the Colonial Pipeline Company ransomware incident in May 2021.^{24 25} Based on blockchain analysis, 76 Bitzlato deposit addresses received bitcoin (BTC) worth over \$300,000 attributed to Chatex. On November 8, 2021, OFAC designated Chatex, pursuant to E.O. 13694, as amended, for its part in facilitating funds transfers for ransomware actors and for providing material support to SUEX OTC, S.R.O. (SUEX). SUEX, a CVC exchanger located in Moscow City, Russia, was itself designated by OFAC on September 21, 2021, pursuant to E.O. 13694, as amended, for providing material support to the threat posed by criminal ransomware actors.²⁶ According to media reporting in 2021, the RaaS group DarkSide, a Russian-speaking group responsible for the Colonial Pipeline Company ransomware incident in May 2021, along with its clientele, also used Bitzlato.²⁷ In addition, the Phobos ransomware group and its affiliates have made at least 1,063 direct transfers of funds in the form of BTC to at least 76 Bitzlato deposit addresses identified as having received funds from Chatex, representing 414.84 BTC worth approximately \$3 million.

According to public reporting, a spokesperson for Bitzlato denied that it worked with any ransomware criminals and claimed it was not acquainted with an organization called DarkSide.²⁸ However, even if Bitzlato is not knowingly affiliated with DarkSide or other ransomware groups, FinCEN assesses that it provides an enabling environment for such ransomware criminals to utilize its services to cash out ransomware proceeds due to its minimal Anti-Money Laundering/Countering the Financing of Terrorism (AML/CFT) protocols, solidifying its reputation as a go-to CVC exchanger for such groups.²⁹

B. Bitzlato Is Used To Facilitate Darknet Markets and Scams

In addition to receiving ransomware proceeds, Bitzlato's receiving and sending transactional activity shows a significant connection to counterparties associated with other suspected illicit activities, such as darknet markets and scams with ties to and operations in Russia.

Approximately two-thirds of Bitzlato's top receiving and sending counterparties are associated with darknet markets or scams. For example, Bitzlato's top three receiving counterparties, by total amount of BTC received between May 2018 and September 2022 were: (1) Binance, a VASP; (2) the Russia-connected darknet market Hydra; and (3) the alleged Russia-based Ponzi scheme "TheFiniko." Similarly, Bitzlato's top three sending counterparties, by total amount of BTC sent between May 2018 and September 2022 were (1) Hydra; (2) Local Bitcoins, a VASP based/incorporated in Finland; and (3) "TheFiniko." The majority of these receiving and sending counterparties have evident ties to and/or significant operations in Russia. Moreover, FinCEN notes that Bitzlato engaged in significant transactions with each of these counterparties—all of whom are associated with illicit activities—after publishing its AML/KYC policy (further described below), demonstrating the permissive or ineffective nature of its internal controls.

As noted above, dealings with the Russia-connected darknet market Hydra represented a notable percentage of Bitzlato's business. Bitzlato operated as a facilitator of sales and purchases of illicit goods and services on behalf of customers and vendors operating on Hydra and supported a larger proportion of business involving Hydra than comparable U.S. CVC exchangers. Prior to its designation by OFAC in April 2022 and its closure in a law enforcement operation, Russia-connected Hydra was the largest darknet market in the world, representing nearly 80 percent of all traceable darknet market transactions in 2021. Bitzlato processed over 1.46 million direct transfers with the Hydra darknet marketplace between May 2018 and early April 2022, representing transactional flows of nearly 20,000 BTC sent and received during that timeframe. Comparative analysis of Bitzlato to a large U.S.-registered CVC exchanger indicates that less than .01 percent of the U.S. exchanger's transactions were attributed to darknet markets, whereas 6 to 8 percent of Bitzlato's transactions

were attributed to the Hydra darknet market alone. That comparison illustrates that Bitzlato either had a substantially higher appetite for engaging with this illicit darknet market than a U.S.-registered VASP and/or that Bitzlato did not have the appropriate controls to identify and prevent Hydra's illicit activity from flowing through it.

Although Hydra has been shut down, Bitzlato continues to facilitate transactions for growing Russia-connected darknet markets. As of June 2022, Bitzlato's top counterparties by total number of transactions included three other Russian darknet markets: BlackSprut, OMG!OMG!, and Mega.³⁰ Since Hydra's closure in April 2022, these three darknet markets show notably increased transaction volumes with Bitzlato as one of their top counterparties by total sending and receiving volumes. Bitzlato's continued facilitation of Russian darknet markets further illustrates its ongoing engagement with actors connected with Russian illicit finance and raises primary money laundering concerns.

C. Bitzlato Has Engaged in a Significant Volume of Russian Illicit Finance Transactions

According to a study performed by a blockchain analysis company of seven VASPs associated with Moscow City, Russia, between 2019 and 2021, Bitzlato received CVC worth \$206 million from darknet markets, \$224 million from scams, and \$9 million from ransomware attackers, with the value of transactions involving Russian illicit finance or otherwise risky sources quantified as 48 percent of all known Bitzlato transactions.³¹ This is the largest proportion of illicit funds received by all seven businesses analyzed during that time, with the second largest being SUEX, at 37 percent. SUEX, a CVC exchanger located in Moscow-City, Russia, was itself designated by OFAC on September 21, 2021, pursuant to E.O. 13694, as amended, for providing material support to the threat posed by criminal ransomware actors.

D. Bitzlato Does Not Adequately Combat Money Laundering and Illicit Financing on its Platform

Although Bitzlato's homepage states that it has a "Know Your Client [(KYC)] policy," public reporting shows that Bitzlato does not effectively implement

²⁴ Kramer, Andrew; Schwirtz, Michael; and Trojanovski, Anton. "Secret Chats Show How Cybergang Became a Ransomware Powerhouse," *N.Y. Times* (June 3, 2021).

²⁵ Department of State, "Reward Offers for Information to Bring DarkSide Ransomware Variant Co-Conspirators to Justice," (November 4, 2021), <https://www.state.gov/reward-offers-for-information-to-bring-darkside-ransomware-variant-co-conspirators-to-justice>.

²⁶ Department of the Treasury, "Treasury Continues to Counter Ransomware as Part of Whole-of-Government Effort; Sanctions Ransomware Operators and Virtual Currency Exchange" (November 8, 2021), <https://home.treasury.gov/news/press-releases/jy0471>.

²⁷ Brewster, Thomas. "As Ransomware Hackers Sit On Millions In Extorted Money, America's Military Is Urged To Hack Back," *Forbes* (June 5, 2021).

²⁸ *Id.*

²⁹ See Section III.C–D.

³⁰ Blockchain analysis identifies BlackSprut, OMG!OMG! and Mega as Russian darknet markets that offer narcotics and potentially other illicit goods. Open source reporting has likewise flagged that these darknet markets are Russian.

³¹ Chainalysis, "The 2022 Crypto Crime Report," at 128 (February 2022).

policies and procedures designed to combat money laundering and illicit finance, and in fact, has advertised that it lacks such policies, procedures, or internal controls.

Notwithstanding its stated AML/KYC policy, Bitzlato advertises the utility of “simple registration” and does not collect the types of information typically used to conduct effective (AML/CFT).³² As of March 2022, Bitzlato’s website advertised “simple registration without KYC” with “. . . neither selfies nor passports required. Only your email [is] needed. . .” for account creation and transactions on Bitzlato’s platform.³³ As of September 2022, Bitzlato’s advertisement had become more circumspect, offering “simple registration” with “[o]nly your email needed.”³⁴ Nevertheless, neither advertisement indicates that Bitzlato requires or collects the types of information that would be expected or needed as a part of a set of policies and procedures designed to combat money laundering and illicit finance.

Additionally, Bitzlato advertises user-privacy and anonymity, allowing one to buy and sell CVC with “a P2P fiat-to-crypto exchange,” further stating, “you exchange fiat money and cryptocurrency directly with another person.”³⁵ This exchange process allows for transfers to or from a traditional financial institution, as well as other traditional methods, and emphasizes that it does not require users to go through the sort of extensive KYC procedures that are required on other exchanges. Furthermore, publicly available information published by third parties indicates that, notwithstanding Bitzlato’s public statements regarding its AML/KYC policy, verification may not be required.

On its website as of March 2022, Bitzlato purported to maintain an AML/KYC policy designed to prevent and reduce the potential risks of Bitzlato being involved in any illegal activity, stating that “in accordance with international and local regulations, Bitzlato implements effective internal procedures and mechanisms to prevent money laundering, terrorist financing, drug and human trafficking, the proliferation of weapons of mass destruction, corruption and bribery and to respond to any form of suspicious

activity on the part of its Users [sic].”³⁶ Bitzlato further states that it implements a verification procedure, and employs an official responsible for compliance with AML standards, transaction monitoring and risk assessment.

In light of its advertised “simple registration without KYC” and exchange processes, Bitzlato’s previously stated AML/KYC policy and controls appear to have little impact on its actual operations. In practice, Bitzlato does not appear to be collecting the identifying information that would be necessary to facilitate meaningful KYC analysis. The significant quantity of Bitzlato transactions involving ransomware and darknet market actors provides further evidence that Bitzlato is not following its stated AML/KYC policy or identifying suspicious transactions in a way that would allow it to identify and halt the use of its platform by illicit actors.

IV. Analysis Regarding Finding That Bitzlato Is a Financial Institution Operating Outside of the United States That Is of Primary Money Laundering Concern in Connection With Russian Illicit Finance

FinCEN was guided in its analysis by the following considerations: (1) the extent to which the institution is used to facilitate or promote money laundering in connection with Russian illicit finance, including through connections to money laundering activity by Russian organized criminal groups; (2) the extent to which the institution is used for legitimate business purposes; and (3) the extent to which action by FinCEN would guard against international money laundering and other financial crimes. While these considerations were drawn from factors identified in 31 U.S.C. 5318A(c)(2)(B), taking into account the specific circumstances of money laundering activities in connection with Russian illicit finance and the protection of U.S. national security and the U.S. financial system, FinCEN is under no obligation pursuant to section 9714(a) to consider any particular factor or set of factors when making a finding that a financial institution operating outside of the United States is of primary money laundering concern in connection with Russian illicit finance.

A. The Extent to Which Bitzlato Is Used To Facilitate or Promote Money Laundering in Connection With Russian Illicit Finance, Including Through Connections to Money Laundering Activity by Organized Criminal Groups

The record amply establishes that Bitzlato has significant ties to Russia and facilitates a significant number of money laundering transactions involving Russia-related ransomware and Russia-related darknet market proceeds.

Bitzlato’s significant connections to Russia are evidenced by the following: (1) Moscow, Russia is the listed location for Bitzlato found on public websites, with a recent study performed by a blockchain analysis company expressly identifying Bitzlato as having a presence in Moscow City, Russia (during the period between 2019 and 2021);³⁷ (2) the vast majority of its customer base is located in Russia; (3) historical Bitzlato website information claimed it was created by persons in Russia; (4) a registered address in Hong Kong that is a Solo Workshops address—a shared workspace that other Russian companies use as their address of record; (5) as of May 2022, an internet job posting for Bitzlato advertised for a management position in Russia; and (6) in providing an example of a means to purchase or cash out CVC with/to fiat currency, Bitzlato cites transfers in rubles to or from bank accounts with Sberbank, a prominent Russian financial institution that is the subject of Russia-related sanctions administered and enforced by OFAC.

Furthermore, Bitzlato has significant links to Russian illicit finance and Russian criminal actors. A review of illicit actors’ direct exposure to Bitzlato shows that a majority of those illicit actors were based in, or had ties to, Russia and Russia-based cybercriminal forums. Russian ransomware groups or affiliates, such as Russia-affiliated Conti, have been observed using Bitzlato. In particular, CVC wallet addresses associated with the Conti ransomware strain and its affiliates, including Trickbot, have engaged in significant BTC transactions involving Bitzlato. Additionally, Bitzlato had a significant transaction history with the Russia-connected Hydra darknet marketplace and continues to facilitate transactions for Russia-connected darknet marketplaces BlackSprut, OMG!OMG!, and Mega. That Bitzlato is registered in Hong Kong (or that it maintains a registered office in Hong Kong) does not alter FinCEN’s assessment that Bitzlato

³² Bitzlato, <https://bitzlato.com> (last accessed January 2023).

³³ Bitzlato, <https://bitzlato.com> (accessed March 2022).

³⁴ Bitzlato, <https://bitzlato.com> (accessed September 2022 and last accessed January 2023).

³⁵ “Bitzlato Review,” *CryptoNews*, (accessed March 22, 2022), available at <https://cryptonews.com/reviews/bitzlato/>.

³⁶ Bitzlato, <https://bitzlato.com/anti-moneylaundering-policy-and-know-your-client-policy> (last accessed January 2023).

³⁷ Chainalysis, “The 2022 Crypto Crime Report,” at 128 (February 2022).

is of money laundering concern in connection with Russian illicit finance. Section 9714(a) does not require that a foreign financial institution be registered or incorporated in Russia to fall within its scope. The statute only requires that FinCEN determine that the institution is a primary money laundering concern *in connection with* Russian illicit finance. That may occur, as it does in the case of Bitzlato, where the financial institution facilitates money laundering transactions for funds derived from illegal activity or the proceeds of illegal activity and that those activities have a nexus to Russia. Given Bitzlato's significant connections to Russia and links to Russian illicit finance and Russian criminal actors, the record demonstrates that, in this case, the statutory threshold under section 9714(a) is met.

B. The Extent to Which Such Institutions, Transactions, or Types of Accounts Are Used for Legitimate Business Purposes

The record further amply demonstrates that Bitzlato's services are used, to an unusually large extent, to facilitate illicit finance, particularly when compared to other CVC exchanges, and by illicit actors who seek to circumvent AML/CFT obligations and obfuscate the source of funds or their intended use. Bitzlato lacks an adequate AML/CFT program or safeguards, it has a high ratio of illicit transaction exposure relative to total transaction volume when compared to other exchanges, and it has served as the second largest attributable counterparty for the largest darknet market in the world and continues to support Russia-connected darknet markets.

Although Bitzlato offers services that could potentially be used by licit actors, those services may be found other VASPs, including VASPs located in jurisdictions with robust AML/CFT frameworks and regulatory oversight. Legitimate actors have access to a broad range of comparable services that provide for appropriate transparency and can support international efforts to protect the integrity of the international financial system, including transactions involving CVC. Accordingly, given the extensive flow of illegitimate funds through Bitzlato, FinCEN believes that the need to protect U.S. financial institutions from the money laundering risks presented by Bitzlato outweighs any potential legitimate utility its services may provide.

C. The Extent to Which Action by FinCEN Would Guard Against International Money Laundering and Other Financial Crimes

Finding Bitzlato to be a financial institution operating outside of the United States of primary money laundering concern in connection with Russian illicit finance, and prohibiting transmittals of funds, will help insulate the U.S. financial system from international money laundering and other financial crimes. It will further reinforce the importance of AML/CFT compliance in the virtual asset space, help protect the national security of the United States, notify financial institutions around the world of Bitzlato's illicit activity, and set an example for other international partners to follow in the fight against illicit finance and criminal actors.

V. Considerations in Selecting the Special Measure Prohibiting Transmittals of Funds

Section 9714(a) does not require consideration of particular factors in determining which one or more special measures to apply to address an identified primary money laundering concern. Nevertheless, although not bound by the factors, FinCEN considered, in this instance, the factors identified in 31 U.S.C. 5318A(a)(4)(B) to help guide its analysis in this matter and FinCEN elected to perform interagency consultations³⁸ prior to issuing this order.

Guided by the following factors, FinCEN finds reasonable grounds exist for concluding that Bitzlato is a financial institution operating outside of the United States that is of primary money laundering concern in connection with Russian illicit finance and that, pursuant to section 9714(a)(2), the imposition of a special measure prohibiting certain transmittals of funds involving Bitzlato is warranted.

³⁸In connection with this action, FinCEN consulted with staff at the following Departments and agencies with regard to the proposed order and prohibition: Department of Justice; the Department of State; the Board of Governors of the Federal Reserve System; the Federal Deposit Insurance Corporation; the Securities and Exchange Commission; the Commodity Futures Trading Commission; the Office of the Comptroller of the Currency; and the National Credit Union Administration Board. These consultations involved sharing drafts and information for the purpose of obtaining interagency views on the imposition of a prohibition on certain transmittals of funds by any domestic financial institution from or to Bitzlato, or from an account or CVC address administered by or on behalf of Bitzlato, and the effect that such a prohibition would have on the domestic and international financial system. Each of the Departments and agencies concurred in the issuance of this order.

A. Whether Similar Action Has Been or Is Being Taken by Other Nations or Multilateral Groups

FinCEN is unaware of any action that has been taken or is being taken by other nations or multilateral groups with regard to Bitzlato. FinCEN, however, believes that the action will provide a strong signal to the international community of the risks posed by Bitzlato and urges counterpart jurisdictions to consider such risks in its supervision of VASPs.

B. Whether the Imposition of Any Particular Special Measure Would Create a Significant Competitive Disadvantage, Including Any Undue Cost or Burden Associated With Compliance, for Financial Institutions Organized or Licensed in the United States

FinCEN assesses that imposing a prohibition on certain transmittals of funds involving Bitzlato will not present a significant competitive disadvantage for financial institutions organized or licensed in the United States given Bitzlato's relatively small size, and the relatively limited burden that compliance with this order would impose.

By U.S. and international standards, Bitzlato represents a limited percentage of daily CVC transfers. As of April 2022, Bitzlato maintained a daily BTC balance that was 0.0185 percent as large as the largest U.S.-domiciled CVC exchange, and it has 0.55 percent as many BTC transfers. Bitzlato's transaction history with this same U.S.-domiciled CVC exchange totals fewer than \$26 million in CVC over four years. By contrast, a CVC price and volume aggregator estimates that a large U.S.-domiciled exchanger processed more than \$2.7 billion in transfers *daily*. Further, compliance with the prohibition on certain transmittals of funds set out in this order requires no tools or competencies other than those already employed by domestic financial institutions to maintain their current AML/CFT compliance programs. In order to ensure that is the case, FinCEN has elected to provide within this order for the rejection of certain transmittals of CVC that are received from or originate at Bitzlato and outline the steps a covered financial institution should take in such circumstances.

In providing for the rejection of CVC under certain limited circumstances, FinCEN acknowledges that, at this time, there are technological limitations that may limit or preclude covered financial institutions from declining CVC transfers originating at addresses

outside of their control, and as such, compliant institutions may find themselves in receipt of CVC from Bitzlato despite a desire and effort to limit such exposure.³⁹ As such, this order allows covered financial institutions the flexibility to act with discretion based on the facts and circumstances of a particular transaction and comply with this order, even where the originating address is no longer accessible, where CVC originated from Bitzlato but were held for an extended period of time in an unhosted wallet, or where the covered financial institution's risk mitigation procedures would preclude returning funds to Bitzlato. Moreover, by providing for the rejection of CVC, this order ensures that covered financial institutions will not be subject to an undue cost or burden associated with compliance.

C. The Extent to Which the Action or the Timing of the Action Would Have a Significant Adverse Systemic Impact on the International Payment, Clearance, and Settlement System, or on Legitimate Business Activities Involving Bitzlato

FinCEN believes that, for the reasons described below, this action will not have an adverse systemic impact, and indeed, will have a positive systemic impact on the international payment, clearance, and settlement system, and on legitimate business activities.

Bitzlato is a small exchange and has a relatively limited presence in the international payment system. As noted above, by comparison to U.S.-domiciled CVC exchanges, Bitzlato represents a relatively limited percentage of daily CVC transfers, by volume. There is no evidence that Bitzlato is a major participant in the international payment system or relied upon by the international banking community.

Rather, given its size and limited international presence, the legitimate business services that it offers would be readily available through other regulated institutions.

Given the redundancy and availability of its services as well as its clear use for

illegitimate business, this action will remove from transaction chains a VASP that facilitates illicit or otherwise unduly risky transactions that pose a risk to the international financial system, without clear adverse impact on the international payment, clearance, and settlement system or on legitimate business activities currently involving Bitzlato.

As FinCEN is not aware of timing considerations associated with such service redundancy or availability, there is also no adverse impact associated with the timing of this action.

D. The Effect of the Action on U.S. National Security and Foreign Policy

Given Bitzlato's connection with Russian illicit finance, FinCEN believes that this action is necessary to safeguard U.S. national security and the U.S. financial system, as well as serve key U.S. national security objectives. Targeting illicit proceeds obtained by ransomware actors, especially those with a nexus to Russia, is a high priority for the United States, as evidenced by recent OFAC actions and recently established intergovernmental task forces focused on Russia-related illicit finance threats. As such, this action will complement previous actions taken by the U.S. Government and will serve the United States' national security and foreign policy interests by protecting U.S. businesses and interests from known ransomware threat actors, by publicly countering a financing mechanism used by illicit entities, including entities that seek to further the Russian state's aims of political and economic destabilization, and by reinforcing the expectations of AML/CFT compliance in the virtual asset ecosystem in order to improve the identification and reporting of suspicious activity by financial institutions and agencies around the world.

VI. Consideration of Alternative Special Measures

FinCEN considered the other special measures available pursuant to section 9714 prior to selecting the prohibition reflected in this order. Pursuant to section 9714, these measures included: (1) the special measures described in 31 U.S.C. 5318A, including the imposition of additional recordkeeping, information collection, and reporting requirements on covered U.S. financial institutions and/or the prohibition or imposition of conditions upon the opening or maintaining of correspondent or payable-through accounts for or on behalf of a foreign banking institution; and (2) the

imposition of conditions on the transmittal of funds, as an alternative to a prohibition on the transmittal of funds. However, prohibiting the transmittal of funds involving Bitzlato is the only means of adequately addressing the threat Bitzlato poses.

In particular, none of the special measures described in 31 U.S.C. 5318A would effectively address the threat posed by Bitzlato.⁴⁰ Any additional recordkeeping, information collection, or reporting requirement would be insufficient to guard against the risks posed by covered financial institutions processing transmittals of funds involving Bitzlato, as such measures may allow such transfers to continue to benefit of illicit actors connected to Russian ransomware activities, darknet markets, and scams. Furthermore, placing condition upon or prohibiting the opening or maintaining in the United States of a correspondent account or payable-through account by any domestic financial institution or domestic financial agency for or on behalf of a foreign banking institution, as described in 31 U.S.C. 5318A(b)(5), is similarly inadequate to address the risks of a P2P VASP such as Bitzlato. The types of CVC transactions that Bitzlato facilitates do not rely on correspondent or payable-through accounts between domestic financial institutions and foreign banks, and FinCEN is unaware of such relationships between Bitzlato and U.S. or foreign financial institutions. As such, prohibiting or placing conditions upon the opening of such accounts would be ineffective at addressing the money laundering concern.

For these reasons, FinCEN assesses that the prohibition on the transmittal of funds, including CVC, involving Bitzlato is the most appropriate special measure.

VII. Consideration for Imposing the Special Measure Prohibiting Certain Transmittals of Funds by Order

Section 9714(a) permits the Secretary to impose certain special measures, including the prohibition of certain transmittals of funds, "by order,

³⁹ FinCEN notes that CVC payment systems are often designed to limit the control of specific financial institutions over transactions and to prevent rejections of funds by persons or entities other than the sender of funds. As a result, although covered financial institutions may institute an internal prohibition on the sending of CVC transactions to another address or entity, FinCEN assesses that there are few, if any, readily available ways for covered financial institutions to "reject" incoming CVC transactions [prior to receipt]. As such, a prohibition on the receipt of CVC from Bitzlato could not be feasibly implemented even by the most compliant of financial institutions and compliant institutions may find themselves in receipt of CVC from Bitzlato despite a desire and effort to limit such exposure.

⁴⁰ Likewise, imposing conditions on transmittals of funds, pursuant to section 9714(a)(2), would be insufficient to address the threat. While imposing conditions, rather than a full prohibition, may be appropriate in circumstances where the institution provides services for legitimate business that are not easily replicated or where a complete prohibition on transactional activity would otherwise unduly harm legitimate economic activity, Bitzlato provides a service that is easily obtainable for legitimate customers through other providers, and in this case the value of any legitimate activity it may conduct is outweighed by the significant proportion of illicit financial activity identified and its lack of mandatory KYC.

regulation or otherwise as permitted by law,” and FinCEN considered both the order and regulation options. In light of the imminence of the threats posed by the illicit actors facilitated by Bitzlato, as well as the extent of the illicit transactional activity identified, an order prohibiting certain transmittals of funds is the most appropriate course of action.

In order to ensure orderly implementation, FinCEN will delay the effective date of this order until February 1, 2023.

A copy of this order will be published in the **Federal Register**. To the extent Bitzlato or other parties have information relevant to this order, they may submit it to FinCEN at *frc@fincen.gov*.

VIII. Order

A. Definitions

1. Bitzlato

The order defines Bitzlato, a CVC exchanger registered in Hong Kong and previously known as ChangeBot, to mean all subsidiaries, branches, and offices of Bitzlato operating in any jurisdiction, as well as any successor entity.

2. Convertible Virtual Currency (CVC)

The order defines convertible virtual currency (CVC) as a medium of exchange that either has an equivalent value as currency, or acts as a substitute for currency, but lacks legal tender status. Despite having legal tender status in at least one jurisdiction, for the purpose of this order, Bitcoin is included as a type of CVC.

3. Covered Financial Institution

The order defines a covered financial institution as having the same meaning as “financial institution” in 31 CFR 1010.100(t).

4. CVC Exchanger

The order defines a CVC exchanger as any person engaged as a business in the exchange of CVC for fiat currency, funds, or other CVC.

5. Peer to Peer (P2P) Exchangers

The order defines P2P exchangers to include persons engaged in the business of buying and selling CVC.

6. Recipient

The order defines recipient as the person to be paid by the recipient’s covered financial institution.

7. Successor Entity

The order defines successor entity as any person that replaces Bitzlato by

acquiring its assets, in whole or in part, and/or carrying out the affairs of Bitzlato under a new name.

8. Transmittal of Funds

The order defines transmittal of funds as the sending and receiving of funds, including CVC.

9. Meaning of Other Terms

All terms used but not otherwise defined herein shall have the meaning set forth in 31 CFR Chapter X and 31 U.S.C. 5312.

B. Prohibition of the Transmittal of Funds Involving Bitzlato

1. Prohibition

A covered financial institution is prohibited from engaging in a transmittal of funds from or to Bitzlato, or from or to any account or CVC address administered by or on behalf of Bitzlato.

2. Rejection of Funds and Condition on the Transfer of Rejected Funds

A covered financial institution will be deemed not to have violated this Order where, upon determining that it received CVC that originated from Bitzlato or from an account or CVC address administered by or on behalf of Bitzlato, that covered financial institution rejects the transaction, preventing the intended recipient from accessing such CVC and returning the CVC to Bitzlato, or to the account or CVC address from which the CVC originated.

C. Order Period

The terms of this order are effective February 1, 2023, with no cessation date.

D. Reservation of Authority

FinCEN reserves its authority pursuant to Section 9714(a) to impose conditions on certain transmittals of funds from or to Bitzlato, or from or to any account or CVC address administered by or on behalf of Bitzlato.

E. Other Obligations

Nothing in this order shall be construed to modify, impair or otherwise affect any requirements or obligations to which a covered financial institution is subject pursuant to the BSA, including, but not limited to, the filing of Suspicious Activity Reports (SARs), or other applicable laws or regulations, such as the sanctions administered and enforced by the U.S. Department of the Treasury’s Office of Foreign Assets Control.

F. Penalties for Noncompliance

The covered financial institution, and any of its officers, directors, employees, and agents, may be liable for civil or criminal penalties under 31 U.S.C. 5321 and 5322 for violating any of the terms of this order.⁴¹

G. Validity of Order

Any judicial determination that any provision of this order is invalid shall not affect the validity of any other provision of this order, and each other provision shall thereafter remain in full force and effect.

Dated: January 18, 2023.

Himamauli Das,

Acting Director, Financial Crimes Enforcement Network.

[FR Doc. 2023–01189 Filed 1–19–23; 11:15 am]

BILLING CODE 4810–02–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2023–0039]

RIN 1625–AA00

Safety Zone; Charleston Harbor, Charleston, SC

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for navigable waters of the Cooper River, Charleston Harbor, and Atlantic Ocean at the Charleston Harbor Entrance and Approach, Charleston Harbor, within a 100-yard radius of the vessel USNS Gordon and all towing vessels supporting its operations. The safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards created by the dead ship movement of USNS Gordon from the Naval Weapons Station, Joint Base Charleston Transportation Core (TC) Dock or Wharf Alpha through the Charleston Harbor Entrance Channel. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port Sector Charleston.

⁴¹ Section 6106(b) of the National Defense Authorization Act for Fiscal Year 2022 (Public Law 117–81) amended section 9714 of the Combatting Russian Money Laundering Act (Pub. L. 116–283) to, among other things, provide that the penalties set forth in 31 U.S.C. 5321 and 5322 shall apply to violations of any order, regulation, special measure, or other requirement imposed under section 9714, in the same manner and to the same extent described in sections 5321 and 5322.

DATES: This rule is effective without actual notice from January 23, 2023 through January 24, 2023. For the purposes of enforcement, actual notice will be used from January 12, 2023, until January 23, 2023.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG–2023–0039 in the search box and click “Search.” Next, in the Document Type column, select “Supporting & Related Material.”

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email MST1 Thomas J. Welker, Sector Charleston, Waterways Management Division, U.S. Coast Guard; telephone (843) 740–3186, email thomas.j.welker@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because doing so would be impracticable. The Coast Guard lacks sufficient time to provide for a comment period and then consider those comments before issuing the rule since this rule is needed by January 12, 2023. It would be contrary to the public interest since immediate action is necessary to protect the safety of the public, and vessels transiting the waters of the Cooper River, Charleston Harbor, and the Atlantic Ocean at the Charleston Harbor Entrance and Approach during the dead ship movement of USNS Gordon.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be impracticable

because immediate action is needed to minimize the potential safety hazards associated with the dead ship movement of the USNS Gordon.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034. The Captain of the Port Charleston (COTP) has determined that potential hazards associated with the dead ship movement and berthing of USNS Gordon on January 12, 2023 (or on a contingency date prior January 25, 2023), will be a safety concern for anyone within a 100-yard radius of vessel and any towing vessels supporting the operation. This rule is needed to protect personnel, vessels, and the marine environment during the dead ship movement of the USNS Gordon while outbound from berthing at the Naval Weapons Station, Joint Base Charleston Transportation Core (TC) Dock or Wharf Alpha, on the Cooper River in Goose Creek, SC to sea.

IV. Discussion of the Rule

This rule establishes a temporary safety zone on January 12, 2023 through January 24, 2023, however the zone will only be enforced while the USNS Gordon is underway with supporting, towing vessels. The moving 100-yard safety zone will be established for the the USNS Gordon and all towing vessels supporting its operations during transit from berth at the Naval Weapons Station, Joint Base Charleston Transportation Core (TC) Dock or Wharf Alpha on the Cooper River in Goose Creek, SC to the Charleston Harbor Entrance Channel Buoy #6. The safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards created by the dead ship movement of USNS Gordon while transiting the Charleston Harbor area. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits.

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

This regulatory action determination is based on the size, location, and scope of the safety zone. The zone is limited in size, location, and duration as it will cover all navigable waters of the Cooper River, Charleston Harbor, and Atlantic Ocean at the Charleston Harbor Entrance and Approach within a 100-yard radius of the vessel USNS Gordon and any towing vessels supporting the operation. The zone is limited in scope as vessel traffic may be able to safely transit around this safety zone and vessels may seek permission from the COTP to enter the zone. The zone is limited in duration in that it will be enforced for no more than eight hours. Moreover, the Coast Guard would issue a Broadcast Notice to Mariners via VHF–FM marine channel 16 about the safety zone.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the regulated area may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

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

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

C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this rule has implications for federalism or Indian tribes, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section above.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Safety

Directive 023-01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a temporary, moving safety zone on waters of the Cooper River, Charleston Harbor, and Atlantic Ocean at the Charleston Harbor Entrance and Approach, within a 100-yard radius of the vessel USNS Gordon and all towing vessels supporting its operations until the vessel proceeds seaward of the Charleston Harbor Entrance Channel Buoy #6. This zone is not expected to last more than eight hours. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023-01-001-01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

List of Subjects in 33 CFR Part 165

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

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS.

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

Authority: 46 U.S.C. 70034, 70051; 33 CFR 1.05-1, 6.04-1, 6.04-6, 160.5; and Department of Homeland Safety Delegation No. 00170.1, Revision No. 01.2.

- 2. Add § 165.T07-0039 to read as follows:

§ 165.T07-0039 Safety Zone; Charleston Harbor, Charleston, SC

(a) *Location.* The following is a safety zone: The moving safety zone will include all navigable waters of the Cooper River, Charleston Harbor, and the Atlantic Ocean at the Charleston Harbor Entrance and Approach, within a 100-yard radius of the vessel USNS Gordon and all towing vessels supporting its operations, while transiting outbound until the vessel proceeds seaward of the Charleston Harbor Entrance Channel Buoy #6.

(b) *Definition.* The term “designated representative” means Coast Guard Patrol Commanders, including Coast Guard coxswains, petty officers, and other officers operating Coast Guard vessels, and Federal, state, and local officers designated by or assisting the Captain of the Port (COTP) in the enforcement of the safety zone.

(c) *Regulations.* (1) No person or vessel will be permitted to enter, transit, anchor, or remain within the safety zone described in paragraph (a) of this section unless authorized by the COTP Charleston or a designated representative. If authorization is granted, persons and/or vessels receiving such authorization must comply with the instructions of the COTP Charleston or designated representative.

(2) Persons who must notify or request authorization from the COTP Charleston may do so by telephone at (843) 740-7050, or may contact a designated representative via VHF radio on channel 16.

(d) *Effective and enforcement period.* This section is effective on January 12, through January 24, 2023. The moving zone will be enforced while USNS Gordon and all towing vessels supporting its operations are transiting, until seaward of the Charleston Harbor Entrance Channel Buoy #6.

Dated: January 11, 2023.

John D. Cole,

Captain, U.S. Coast Guard, Captain of the Port Charleston.

[FR Doc. 2023-01125 Filed 1-20-23; 8:45 am]

BILLING CODE 9110-04-P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

45 CFR Parts 1230 and 2554

RIN 3045-AA86

Annual Civil Monetary Penalties Inflation Adjustment

AGENCY: Corporation for National and Community Service.

ACTION: Final rule.

SUMMARY: The Corporation for National and Community Service (CNCS) is updating its regulations to reflect required annual inflation-related increases to the civil monetary penalties under the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Act) and Office of Management and Budget (OMB) guidance.

DATES: This rule is effective January 23, 2023.

FOR FURTHER INFORMATION CONTACT:

Kiara Rhodes, Office of General Counsel, at PublicComments@cns.gov or 202-937-6965. Individuals who use a telecommunications device for the deaf (TTY-TDD) may call 800-833-3722 between 8 a.m. and 8 p.m. Eastern Time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

I. Background

The Corporation for National and Community Service, which operates as AmeriCorps, is a Federal agency that engages millions of Americans in service. AmeriCorps members and AmeriCorps Seniors volunteers serve directly with nonprofit organizations to tackle our nation's most pressing challenges. For more information, visit americorps.gov.

AmeriCorps has two civil monetary penalties in its regulations. A civil monetary penalty under the Act is a penalty, fine, or other sanction that: (1) is for a specific monetary amount as provided by Federal law or has a maximum amount provided for by Federal law; and (2) is assessed or enforced by an agency pursuant to Federal law; and (3) is assessed or enforced pursuant to an administrative proceeding or a civil action in the Federal courts. (See 28 U.S.C. 2461 note). A civil monetary penalty does not include a penalty levied for violation of a criminal statute, or fees for services, licenses, permits, or other regulatory review.

The Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Sec. 701 of Pub. L. 114-74) (the "Act") requires agencies to adjust their civil monetary penalties for inflation annually. Today's rule updates AmeriCorps' two civil penalties for inflation.

II. Method of Calculation

The inflation adjustment for each applicable civil monetary penalty is determined using the percent increase in the Consumer Price Index for all Urban Consumers (CPI-U) for the month

of October of the year in which the amount of each civil money penalty was most recently established or modified. See December 15, 2022 OMB Memo for the Heads of Executive Departments and Agencies, M-23-05, *Implementation of Penalty Inflation Adjustments for 2023, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015*. The cost-of-living adjustment multiplier for 2023, based on the CPI-U for the month of October 2022, not seasonally adjusted, is 1.07745.

The agency identified two civil penalties in its regulations: (1) the penalty associated with Restrictions on Lobbying (45 CFR 1230.400) and (2) the penalty associated with the Program Fraud Civil Remedies Act (45 CFR 2554.1):

- The civil monetary penalties related to Restrictions on Lobbying (45 CFR 1230.400) range from \$22,022 to \$220,212. Using the 2023 multiplier, the new range of possible civil monetary penalties is from \$23,728 to \$237,267.

- The Program Fraud Civil Remedies Act of 1986 (45 CFR 2554.1) civil monetary penalty has an upper limit of \$12,537. Using the 2023 multiplier, the new upper limit of the civil monetary penalty is \$13,508.

III. Summary of Final Rule

This final rule adjusts the civil monetary penalty amounts related to Restrictions on Lobbying (45 CFR 1230.400) and the Program Fraud Civil Remedies Act of 1986 (45 CFR 2554.1). The range of civil monetary penalties related to Restrictions on Lobbying increase from "\$22,022 to \$220,212" to "\$23,728 to \$237,267." The civil monetary penalties for the Program Fraud Civil Remedies Act of 1986 increase from "up to \$12,537" to "up to \$13,508."

IV. Regulatory Procedures

A. Determination of Good Cause for Publication Without Notice and Comment and With an Immediate Effective Date

Section 553(b) of the Administrative Procedure Act (APA) (5 U.S.C. 553) provides that, when an agency for good cause finds that notice and public comment procedures are impracticable, unnecessary, or contrary to the public interest, then the agency may issue a rule without providing notice and an opportunity for prior public comment. The agency finds that there is good cause to except this rule from the public notice and comment provisions of the APA in this case. Because the Federal Civil Penalties Inflation Adjustment Act

Improvements Act of 2015 requires the agency to update its regulations based on a prescribed formula, the agency has no discretion in the nature or amount of the change to the civil monetary penalties to reflect any views or suggestions provided by commenters. Accordingly, it would serve no purpose to provide an opportunity for public comment on this rule prior to promulgation. Thus, providing for notice and public comment is impracticable and unnecessary. Additionally, it would not be possible to meet the deadlines imposed by the Act if we were to first publish a proposed rule, allow the public sufficient time to submit comments, analyze the comments, and publish a final rule. Therefore, notice and comment for these proscribed updates is impracticable and unnecessary.

Furthermore, the agency finds under section 553(d)(3) of the APA that good cause exists to make this final rule effective immediately upon publication in the **Federal Register**. In the Act, Congress expressly required Federal agencies to publish annual inflation adjustments to civil penalties in the **Federal Register** by January 15 of each year, notwithstanding section 553 of the APA. Under the statutory framework and OMB guidance, the new penalty levels take effect immediately upon the effective date of the adjustment. The statutory deadline does not allow time to delay this rule's effective date beyond publication. Moreover, an effective date after January 15 would delay application of the new penalty levels, contrary to Congress's intent.

Accordingly, we are issuing the annual adjustments as a final rule without prior notice or an opportunity for comment and with an effective date immediately upon publication in the **Federal Register**.

B. Review Under Procedural Statutes and Executive Orders

The agency has determined that making technical changes to the amount of civil monetary penalties in its regulations does not trigger any requirements under procedural statutes and Executive Orders that govern rulemaking procedures.

List of Subjects

45 CFR Part 1230

Government contracts, Grant programs, Loan programs, Lobbying, Penalties, Reporting and recordkeeping requirements.

45 CFR Part 2554

Claims, Fraud, Organization and functions (Government agencies), Penalties.

For the reasons discussed in the preamble, under the authority of 42 U.S.C. 12651c(c), the Corporation for National and Community Service amends chapters XII and XXV, title 45 of the Code of Federal Regulations as follows:

PART 1230—NEW RESTRICTIONS ON LOBBYING

■ 1. The authority citation for part 1230 continues to read as follows:

Authority: Section 319, Pub. L. 101–121 (31 U.S.C. 1352); Pub. L. 93–113; 42 U.S.C. 4951, *et seq.*; 42 U.S.C. 5060.

§ 1230.400 [Amended]

■ 2. Amend § 1230.400 by removing “\$22,022” wherever it appears and adding, in its place, “\$23,728”, and by removing “\$220,212” wherever it appears and adding, in its place, “\$237,267”.

Appendix A to Part 1230 [Amended]

■ 3. Amend appendix A to part 1230 by removing “\$22,022” wherever it appears and adding, in its place, “\$23,728” and removing “\$220,212” wherever it appears and adding, in its place, “\$237,267”.

PART 2554—PROGRAM FRAUD CIVIL REMEDIES ACT REGULATIONS

■ 4. The authority citation for part 2554 continues to read as follows:

Authority: Pub. L. 99–509, Secs. 6101–6104, 100 Stat. 1874 (31 U.S.C. 3801–3812); 42 U.S.C. 12651c–12651d.

§ 2554.1 [Amended]

■ 5. Amend § 2554.1 in paragraph (b) by removing “\$12,537” and adding, in its place, “\$13,508”.

Fernando Laguarda,
General Counsel.

[FR Doc. 2023–01227 Filed 1–20–23; 8:45 am]

BILLING CODE 6050–28–P

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 679**

[Docket No. 220223–0054; RTID 0648–XC684]

Fisheries of the Exclusive Economic Zone Off Alaska; Groundfish in the Red King Crab Savings Subarea of the Bering Sea and Aleutian Islands Management Area

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for groundfish by vessels using nonpelagic trawl gear in the Red King Crab Savings Subarea of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary because the State of Alaska, Department of Fish and Game did not establish a guideline harvest level fishery for red king crab in the Bristol Bay area for the 2022/2023 fishing year.

DATES: Effective 1200 hours, Alaska local time (A.l.t.), January 20, 2023, through 2400 hours, A.l.t., December 31, 2023.

FOR FURTHER INFORMATION CONTACT: Abby Jahn, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

In accordance with § 679.21(e)(3)(ii)(B)(1), the Regional Administrator is prohibiting directed fishing for groundfish by vessels using nonpelagic trawl gear in the Red King Crab Saving Subarea of the BSAI. This action is necessary because the State of Alaska, Department of Fish and Game did not establish a guideline harvest level fishery for red king crab in the Bristol Bay area for the 2022/2023 fishing year.

While this closure is effective, the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act. This action is required by 50 CFR part 679, which was 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 would be impracticable and contrary to the public interest, as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion, and would delay the directed fishing closure of groundfish by vessels using nonpelagic trawl gear in the Red King Crab Savings Subarea of the BSAI. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of January 17, 2023.

The Assistant Administrator for Fisheries, NOAA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

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

Dated: January 18, 2023.

Jennifer M. Wallace,

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

[FR Doc. 2023–01170 Filed 1–18–23; 4:15 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 679**

[Docket No. 220216–0049; RTID 0648–XC691]

Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 610 in the Gulf of Alaska

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for pollock in Statistical Area 610 in the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the A season allowance of the 2023 total allowable catch of pollock for Statistical Area 610 in the GOA.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), January 20, 2023, through 1200 hrs, A.l.t., May 31, 2023.

FOR FURTHER INFORMATION CONTACT: Krista Milani, 907-581-2062.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The A season allowance of the 2022 total allowable catch (TAC) of pollock in Statistical Area 610 of the GOA is 1,685 metric tons (mt) as established by the final 2022 and 2023 harvest specifications for groundfish in the GOA (87 FR 11599, March 2, 2022) and inseason adjustment (87 FR 80088, December 29, 2022).

In accordance with §§ 679.20(d)(1)(i) and 679.20(d)(1)(ii)(B), the Regional Administrator has determined that the

A season allowance of the 2023 TAC of pollock in Statistical Area 610 of the GOA is necessary to account for the incidental catch in other anticipated fisheries. Therefore, the Regional Administrator is establishing a directed fishing allowance of 100 mt and is setting aside the remaining 1,585 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for pollock in Statistical Area 610 of the GOA.

While this closure is effective, the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act. This action is required by 50 CFR part 679, which was 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 would be impracticable and contrary to the public interest, as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion, and would delay the closure of pollock in Statistical Area 610 in the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of January 17, 2023.

The Assistant Administrator for Fisheries, NOAA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

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

Dated: January 18, 2023.

Jennifer M. Wallace,

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

[FR Doc. 2023-01163 Filed 1-18-23; 4:15 pm]

BILLING CODE 3510-22-P

Proposed Rules

Federal Register

Vol. 88, No. 14

Monday, January 23, 2023

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA-2023-0034; Airspace
Docket No. 23-AGL-3]

RIN 2120-AA66

Proposed Amendment of Class E Airspace; Watertown, SD

AGENCY: Federal Aviation
Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking
(NPRM).

SUMMARY: This action proposes to amend the Class E airspace at Watertown, SD. The FAA is proposing this action due to an airspace review conducted as part of the decommissioning of the Watertown very high frequency omnidirectional range (VOR) as part of the VOR Minimum Operating Network (MON) Program. The name and geographic coordinates of the airport would also be updated to coincide with the FAA's aeronautical database.

DATES: Comments must be received on or before March 9, 2023.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590; telephone (202) 366-9826, or (800) 647-5527. You must identify FAA Docket No. FAA-2023-0034/Airspace Docket No. 23-AGL-3 at the beginning of your comments. You may also submit comments through the internet at www.regulations.gov. You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays.

FAA Order JO 7400.11G, Airspace Designations and Reporting Points, and subsequent amendments can be viewed

online at www.faa.gov/air_traffic/publications/. For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267-8783.

FOR FURTHER INFORMATION CONTACT: Jeffrey Claypool, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222-5711.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would amend the Class E surface airspace and the Class E airspace extending upward from 700 feet above the surface at Watertown Regional Airport, Watertown, SD, to support instrument flight rule operations at this airport.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following

statement is made: "Comments to Docket No. FAA-2023-0034/Airspace Docket No. 23-AGL-3." The postcard will be date/time stamped and returned to the commenter.

All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded through the internet at www.regulations.gov. Recently published rulemaking documents can also be accessed through the FAA's web page at www.faa.gov/air_traffic/publications/airspace_amendments/.

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for the address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the Federal Aviation Administration, Air Traffic Organization, Central Service Center, Operations Support Group, 10101 Hillwood Parkway, Fort Worth, TX 76177.

Availability and Summary of Documents for Incorporation by Reference

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

The Proposal

The FAA is proposing an amendment to 14 CFR part 71 by:

Amending the Class E surface airspace at Watertown Regional Airport, Watertown, SD, by updating the name (previously Watertown Municipal

Airport) and geographic coordinates of the airport to coincide with the FAA's aeronautical database;

And amending the Class E airspace extending upward from 700 feet above the surface at Watertown Regional Airport by removing the Watertown VOR/tactical air navigation (VORTAC) and the associated extension to the north of the airport; removing the extension south of the airport as it is no longer required; removing the airspace extending 1,200 feet above the surface from the airspace legal description as it is redundant with the airspace extending 1,200 feet above the surface over the State of South Dakota and State of Minnesota; and updating the name (previously Watertown Municipal Airport) and geographic coordinates of the airport to coincide with the FAA's aeronautical database.

This action is the result of an airspace review conducted as part of the decommissioning of the Watertown VOR, which provided navigational information to this airport, as part of the VOR MON Program.

Class E airspace designations are published in paragraphs 6002 and 6005, respectively, of FAA Order JO 7400.11G, dated August 19, 2022, and effective September 15, 2022, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in FAA Order JO 7400.11.

FAA Order JO 7400.11, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. 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. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, "Environmental Impacts: Policies and Procedures" prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

- 1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

- 2. The incorporation by reference in 14 CFR 71.1 of FAA Order JO 7400.11G, Airspace Designations and Reporting Points, dated August 19, 2022, and effective September 15, 2022, is amended as follows:

Paragraph 6002 Class E Airspace Area Designated as Surface Areas.

* * * * *

AGL SD E2 Watertown, SD [Amended]

Watertown Regional Airport, SD
(Lat. 44°54'50" N, long. 97°09'17" W)

Within a 4.3-mile radius of Watertown Regional Airport.

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

AGL SD E5 Watertown, SD [Amended]

Watertown Regional Airport, SD
(Lat. 44°54'50" N, long. 97°09'17" W)

That airspace extending upward from 700 feet above the surface within a 6.8-mile radius of Watertown Regional Airport.

Issued in Fort Worth, Texas, on January 17, 2023.

Martin A. Skinner,

*Acting Manager, Operations Support Group,
ATO Central Service Center.*

[FR Doc. 2023–01057 Filed 1–20–23; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2022–1741; Airspace
Docket No. 22–ASO–29]

RIN 2120–AA66

Proposed Amendment of Class E Airspace; Andrews, NC

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend Class E airspace extending upward from 700 feet above the surface for Western Carolina Regional Airport, Andrews, NC, as a new Area Navigation Global Positioning System (RNAV GPS) approach has been designed for this airport. This action would also update the airport's name and geographic coordinates. Murphy Medical Center would also be removed from the descriptor, as all instrument approaches into the hospital have been canceled. Controlled airspace is necessary for the safety and management of instrument flight rules (IFR) operations in the area.

DATES: Comments must be received on or before March 9, 2023.

ADDRESSES: Send comments on this proposal to: the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001; Telephone: (800) 647–5527, or (202) 366–9826. You must identify Docket No. FAA–2022–1741; Airspace Docket No. 22–ASO–29 at the beginning of your comments. You may also submit comments through the internet at www.regulations.gov.

FAA Order JO 7400.11G Airspace Designations and Reporting Points and subsequent amendments can be viewed online at www.faa.gov/air_traffic/publications/. For further information, contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; Telephone: (202) 267–8783.

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

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in

Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority, as it would amend airspace in Andrews, NC, to support IFR operations in the area.

Comments Invited

Interested persons are invited to comment on this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide a factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (Docket No. FAA–2022–1741 and Airspace Docket No. 22–ASO–29) and be submitted in triplicate to DOT Docket Operations (see **ADDRESSES** section for the address and phone number). You may also submit comments through the internet at www.regulations.gov.

Persons wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed stamped postcard on which the following statement is made: “Comments to FAA Docket No. FAA–2022–1347; Airspace Docket No. 22–ASO–29.” The postcard will be dated/time-stamped and returned to the commenter.

All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal in this document may be changed in light of the comments received. All comments submitted will be available for examination in the public docket before and after the comment closing date. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded through the internet at www.regulations.gov.

Recently published rulemaking documents can also be accessed through the FAA's web page at www.faa.gov/air_traffic/publications/airspace_amendments/.

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except on federal holidays. An informal docket may also be examined between 8:00 a.m. and 4:30 p.m., Monday through Friday, except for federal holidays at the office of the Eastern Service Center, Federal Aviation Administration, Room 350, 1701 Columbia Avenue, College Park, GA 30337.

Availability and Summary of Documents for Incorporation by Reference

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

The Proposal

The FAA proposes an amendment to 14 CFR part 71 to amend Class E airspace extending upward from 700 feet above the surface for Carolina Regional Airport (formerly Andrews-Murphy Airport), Andrews, NC, as a new RNAV GPS approach has been designed for this airport. The 6.5-mile radius would remain, but extensions to the northeast and the southwest would be created. This action would also update the airport's name and geographic coordinates. Also, the descriptor header would be updated to Andrews, NC (formerly Andrews-Murphy, NC). Additionally, Murphy Medical Center would be removed from the descriptor, as all instrument approaches into the hospital have been canceled.

Class E airspace designations are published in Paragraph 6005 of FAA Order JO 7400.11G, dated August 19, 2022, and effective September 15, 2022, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in FAA Order JO 7400.11.

FAA Order JO 7400.11, Airspace Designations and Reporting Points, is

published yearly and effective on September 15.

Regulatory Notices and Analyses

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

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, “Environmental Impacts: Policies and Procedures,” prior to any FAA final regulatory action.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

- 1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

- 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order JO 7400.11G, Airspace Designations and Reporting Points, dated August 19, 2022, and effective September 15, 2022, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

ASO NC E5 Andrews, NC [Amended]

Western Carolina Regional Airport, NC
(Lat. 35°11'43" N, long. 83°51'47" W)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Western Carolina Regional Airport and within 1.5 miles on each side of the 257° bearing from the airport, extending from the 6.5-mile radius to 13.5-miles southwest of the airport, and within 1-mile each side of the 077° bearing from the airport, extending from the 6.5-mile radius to 11-miles northeast of the airport.

Issued in College Park, Georgia, on January 11, 2023.

Andrese C. Davis,

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

[FR Doc. 2023-01079 Filed 1-20-23; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 71**

[Docket No. FAA-2023-0035; Airspace
Docket No. 23-AGL-4]

RIN 2120-AA66

**Proposed Amendment of Class D and
E Airspace; Bloomington/Normal, IL**

AGENCY: Federal Aviation
Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking
(NPRM).

SUMMARY: This action proposes to amend the Class D and Class E airspace at Bloomington/Normal, IL. The FAA is proposing this action due to an airspace review conducted as part of the decommissioning of the Bloomington very high frequency omnidirectional range (VOR) as part of the VOR Minimum Operating Network (MON) Program. The name and geographic coordinates of the airport would also be updated to coincide with the FAA's aeronautical database.

DATES: Comments must be received on or before March 9, 2023.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590; telephone (202) 366-9826, or (800) 647-5527. You must identify FAA Docket No. FAA-2023-0035/Airspace Docket No. 23-AGL-4 at the beginning of your comments. You may also submit comments through the internet at www.regulations.gov. You may review the public docket containing the proposal, any comments

received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays.

FAA Order JO 7400.11G, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at www.faa.gov/air_traffic/publications/. For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267-8783.

FOR FURTHER INFORMATION CONTACT:

Jeffrey Claypool, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222-5711.

SUPPLEMENTARY INFORMATION:**Authority for This Rulemaking**

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would amend the Class D airspace and the Class E airspace extending upward from 700 feet above the surface at Central Illinois Regional/Bloomington-Normal Airport, Bloomington/Normal, IL, to support instrument flight rule operations at this airport.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those

comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. FAA-2023-0035/Airspace Docket No. 23-AGL-4." The postcard will be date/time stamped and returned to the commenter.

All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded through the internet at www.regulations.gov. Recently published rulemaking documents can also be accessed through the FAA's web page at www.faa.gov/air_traffic/publications/airspace_amendments/.

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for the address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the Federal Aviation Administration, Air Traffic Organization, Central Service Center, Operations Support Group, 10101 Hillwood Parkway, Fort Worth, TX 76177.

**Availability and Summary of
Documents for Incorporation by
Reference**

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

The Proposal

The FAA is proposing an amendment to 14 CFR part 71 by:

Amending the Class D airspace to within a 4.4-mile (decreased from a 7-mile) radius of Central Illinois Regional/Bloomington-Normal Airport, Bloomington/Normal, IL; updating the header of the airspace legal description from "Bloomington, IL" to "Bloomington/Normal, IL" to coincide

with the FAA's aeronautical database; updating the name (previously Bloomington/Normal Airport) and geographic coordinates of the airport to coincide with the FAA's aeronautical database; and updating the outdated terms "Notice to Airmen" to "Notice to Air Missions" and "Airport/Facility Directory" to "Chart Supplement";

And amending the Class E airspace extending upward from 700 feet above the surface to within a 6.9-mile (decreased from a 7.3-mile) radius of Central Illinois Regional/Bloomington-Normal Airport; updating the header of the airspace legal description from "Bloomington, IL" to "Bloomington/Normal, IL" to coincide with the FAA's aeronautical database; and updating the name (previously Central Illinois Regional Airport at Bloomington-Normal) and geographic coordinates of the airport to coincide with the FAA's aeronautical database.

This action is the result of an airspace review conducted as part of the decommissioning of the Bloomington VOR, which provided navigational information to this airport, as part of the VOR MON Program.

Class D and E airspace designations are published in paragraphs 5000 and 6005, respectively, of FAA Order JO 7400.11G, dated August 19, 2022, and effective September 15, 2022, which is incorporated by reference in 14 CFR 71.1. The Class D and E airspace designations listed in this document will be published subsequently in FAA Order JO 7400.11.

FAA Order JO 7400.11, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. 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. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, would not have a significant economic impact on a substantial number of small entities

under the criteria of the Regulatory Flexibility Act.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, "Environmental Impacts: Policies and Procedures" prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order JO 7400.11G, Airspace Designations and Reporting Points, dated August 19, 2022, and effective September 15, 2022, is amended as follows:

Paragraph 5000 Class D Airspace.

* * * * *

AGL IL D Bloomington/Normal, IL [Amended]

Central Illinois Regional/Bloomington-Normal Airport, IL
(Lat. 40°28'38" N, long. 88°54'57" W)

That airspace extending upward from the surface to and including 3,400 feet MSL within a 4.4-mile radius of Central Illinois Regional/Bloomington-Normal Airport. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Air Missions. The effective dates and times will thereafter be continuously published in the Chart Supplement.

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

AGL IL E5 Bloomington/Normal, IL [Amended]

Central Illinois Regional/Bloomington-Normal Airport, IL
(Lat. 40°28'38" N, long. 88°54'57" W)

That airspace extending upward from 700 feet above the surface within a 6.9-mile radius of the Central Illinois Regional/Bloomington-Normal Airport.

Issued in Fort Worth, Texas, on January 17, 2023.

Martin A. Skinner,

*Acting Manager, Operations Support Group,
ATO Central Service Center.*

[FR Doc. 2023–01051 Filed 1–20–23; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

**[Docket No. FAA–2023–0037; Airspace
Docket No. 23–ASW–1]**

RIN 2120–AA66

Proposed Amendment of Class E Airspace; Sulphur Springs, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend the Class E airspace at Sulphur Springs, TX. The FAA is proposing this action due to an airspace review conducted as part of the decommissioning of the Sulphur Springs very high frequency omnidirectional range (VOR) as part of the VOR Minimum Operating Network (MON) Program.

DATES: Comments must be received on or before March 9, 2023.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590; telephone (202) 366–9826, or (800) 647–5527. You must identify FAA Docket No. FAA–2023–0037/Airspace Docket No. 23–ASW–1 at the beginning of your comments. You may also submit comments through the internet at www.regulations.gov. You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays.

FAA Order JO 7400.11G, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at www.faa.gov/air_traffic/publications/. For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783.

FOR FURTHER INFORMATION CONTACT: Jeffrey Claypool, Federal Aviation

Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222-5711.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would amend the Class E airspace extending upward from 700 feet above the surface at Sulphur Springs Municipal Airport, Sulphur Springs, TX, to support instrument flight rule operations at this airport.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. FAA-2023-0037/Airspace Docket No. 23-ASW-1." The postcard will be date/time stamped and returned to the commenter.

All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded through the internet at www.regulations.gov. Recently published rulemaking documents can also be accessed through the FAA's web page at www.faa.gov/air_traffic/publications/airspace_amendments/.

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for the address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the Federal Aviation Administration, Air Traffic Organization, Central Service Center, Operations Support Group, 10101 Hillwood Parkway, Fort Worth, TX 76177.

Availability and Summary of Documents for Incorporation by Reference

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

The Proposal

The FAA is proposing an amendment to 14 CFR part 71 by amending the Class E airspace extending upward from 700 feet above the surface at Sulphur Springs Municipal Airport, Sulphur Springs, TX, by removing the Brashear radio beacon (RBN) and associated airspace extension as they are no longer needed; and adding an extension 2 miles each side of the 190° bearing from the airport extending from the 6.5-mile radius of the airport to 9.4 miles south of the airport.

This action is the result of an airspace review conducted as part of the decommissioning of the Sulphur Springs VOR, which provided navigation information to the instrument procedures to this airport, as part of the VOR MON Program.

Class E airspace designations are published in paragraph 6005 of FAA Order JO 7400.11G, dated August 19, 2022, and effective September 15, 2022, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document

will be published subsequently in FAA Order JO 7400.11.

FAA Order JO 7400.11, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. 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. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, "Environmental Impacts: Policies and Procedures" prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959-1963 Comp., p. 389.

71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order JO 7400.11G, Airspace Designations and Reporting Points, dated August 19, 2022, and effective September 15, 2022, is amended as follows:

*Paragraph 6005 Class E Airspace Areas
Extending Upward From 700 Feet or More
Above the Surface of the Earth.*

* * * * *

**ASW TX E5 Sulphur Springs, TX
[Amended]**

Sulphur Springs Municipal Airport, TX
(Lat. 33°09'35" N, long. 95°37'16" W)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Sulphur Springs Municipal Airport; and within 2 miles each side of the 190° bearing from the airport extending from the 6.5-mile radius to 9.4 miles south of the airport.

Issued in Fort Worth, Texas, on January 17, 2023.

Martin A. Skinner,

*Acting Manager, Operations Support Group,
ATO Central Service Center.*

[FR Doc. 2023-01052 Filed 1-20-23; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[REG-146537-06]

RIN 1545-BG08

**Income of Foreign Governments and
International Organizations; Comment
Period Reopening; Correction**

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking; reopening of comment period; correction.

SUMMARY: This document contains a notice of proposed rulemaking; reopening the comment period (REG-146537-06) that was published in the **Federal Register** on December 29, 2022, relating to the exemption from taxation afforded to foreign governments under section 892.

DATES: Written or electronic comments and requests for a public hearing are still being accepted and must be received by February 27, 2023.

ADDRESSES: Commenters are strongly encouraged to submit additional public comments electronically. Submit electronic submissions via the Federal eRulemaking Portal at www.regulations.gov (indicate IRS and REG-146537-06) by following the online instructions for submitting comments. Once submitted to the Federal eRulemaking Portal, comments cannot be edited or withdrawn. The Department of the Treasury (the "Treasury Department") and the

Internal Revenue Service (the "IRS") will publish for public availability any comment submitted electronically, and on paper, to its public docket. Send hard copy submissions to: CC:PA:LPD:PR (REG-146537-06), Room 5203, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG-146537-06), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT:

Concerning the notice of proposed rulemaking, Joel Deuth, at (202) 317-6938; concerning submissions of comments or requests for a public hearing, Vivian Hayes at (202) 317-5306 (not toll-free numbers) or by sending an email to publichearings@irs.gov (preferred).

SUPPLEMENTARY INFORMATION:

Background

The notice of proposed rulemaking that is the subject of this correction is under section 892 of the Internal Revenue Code.

Need for Correction

As published on December 29, 2022 (87 FR 80108) the notice of proposed rulemaking (REG-146537-06) contains errors that need to be corrected.

Correction of Publication

Accordingly, the notice of proposed rulemaking (REG-146537-06) that is the subject of FR Doc. 2022-27969, appearing on page 80108 in the **Federal Register** on December 29, 2022, is corrected to read as follows:

On page 80109, in the first column, under the heading **SUPPLEMENTARY INFORMATION**, the first sentence is corrected to read "Generally, REG-146537-06, 76 FR 68119 (November 23, 2011) (the "2011 proposed regulations") provides guidance relating to the exemption from taxation afforded to foreign governments from qualified investments in the United States under section 892 of the Internal Revenue Code."

Oluwafunmilayo A. Taylor,

*Branch Chief, Publications & Regulations,
Legal Processing Division, Associate Chief
Counsel (Procedure and Administration).*

[FR Doc. 2023-01209 Filed 1-20-23; 8:45 am]

BILLING CODE 4830-01-P

**DEPARTMENT OF HOMELAND
SECURITY**

Coast Guard

33 CFR Part 165

[Docket Number USCG-2022-0928]

RIN 1625-AA00

**Safety Zones; Coast Guard Sector
Ohio Valley Annual and Recurring
Safety Zones Update**

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to amend and update its list of recurring safety zone regulations that take place in the Coast Guard Sector Ohio Valley area of responsibility (AOR). Through this rulemaking, the current list of recurring safety zones is proposed to be updated with revisions, additional events, and removal of events that no longer take place. This proposed rule would reduce administrative costs involved in producing separate proposed rules for each individual recurring safety zone and serve to provide notification of the known recurring safety zones throughout the year. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before February 22, 2023.

ADDRESSES: You may submit comments identified by docket number USCG-2022-0928 using the Federal Decision Making Portal at <https://www.regulations.gov>. See the "Public Participation and Request for Comments" portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, call or email MST3 Bryan Crane, Sector Ohio Valley, U.S. Coast Guard; telephone 502-779-5334, email SECOHV-WWM@USCG.MIL.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

AOR Area of responsibility
CFR Code of Federal Regulations
COTP Captain of the Port Sector Ohio Valley
DHS Department of Homeland Security
E.O. Executive Order
FR Federal Register
NPRM Notice of proposed rulemaking
§ Section
U.S.C. United States Code
AOR Area of Responsibility

II. Background, Purpose, and Legal Basis

The Captain of the Port Sector Ohio Valley (COTP) proposes to amend section 165.801 of Title 33 of the Code of Federal Regulations (CFR) to update our regulations for annual fireworks displays and other events in the Eighth Coast Guard District requiring safety zones with respect to those in Sector Ohio Valley.

The current list of annual and recurring safety zones in Sector Ohio Valley's area of responsibility (AOR) is published under Table 1 of 33 CFR 165.801 for annual safety zones in the AOR.

The Coast Guard proposes to amend and update the safety zone regulations under 33 CFR part 165 to include the most up to date list of recurring safety zones for events held on or around navigable waters within Sector Ohio Valley's AOR. These events include air shows, fireworks displays, and other marine related events requiring a

limited access area restricting vessel traffic for safety purposes. The current list in 33 CFR 165.801 needs to be amended to provide new information on existing safety zones, and to include new safety zones expected to recur annually or biannually, and to remove safety zones that are no longer required. Issuing individual regulations for each new safety zone, amendment, or removal of an existing safety zone would create unnecessary administrative costs and burdens. This single proposed rulemaking would considerably reduce administrative overhead and provide the public with notice through publication in the **Federal Register** of the upcoming recurring safety zone regulations.

The Coast Guard encourages the public to participate in this proposed rulemaking through the comment process so that any necessary changes can be identified and implemented in a timely and efficient manner. The Coast Guard will address all public comments

accordingly, whether through response, additional revision to the regulation, or otherwise.

III. Discussion of Proposed Rule

Part 165 of 33 CFR contains regulations establishing limited access areas to restrict vessel traffic for the safety of persons and property. Section 165.801 establishes recurring safety zones to restrict vessel transit into and through specified areas to protect spectators, mariners, and other persons and property from potential hazards presented during certain events taking place in the AOR. This section requires amendment from time to time to properly reflect the recurring safety zone regulations in the AOR. This proposed rule would amend and update § 165.801 by revising the current Table 1.

This proposed rule would add the following 8 safety zones to the existing Table 1 of section 165.801 as follows:

Date	Event/sponsor	Ohio Valley location	Regulated area
1 day in June	Juneteenth/Black Complex of Louisville.	Louisville, KY	Ohio River, Miles 603.5–604.5 (Kentucky).
1 day in June	CMA Festival Fireworks	Nashville, TN	Cumberland River, Miles 190–191 (Tennessee).
1 day in July	Clarksville Independence Day Fireworks.	Ashland City, TN	Cumberland River, Miles 127–129 (Tennessee).
1 day in July	Gallatin Marina Fireworks	Gallatin, TN	Cumberland River, Miles 236.5–237.5 (Tennessee).
1 day in August	Music City Grand Prix Fireworks	Nashville, TN	Cumberland River, Miles 190–191 (Tennessee).
1 day in August	Nashville ASAE Fireworks	Nashville, TN	Cumberland River, Miles 190–191 (Tennessee).
3 Days in August	Music City Grand Prix	Nashville, TN	Cumberland River, Miles 190–191 (Tennessee).
1 day—Saturday before Memorial Day	Ironton-Lawrence County Memorial Day Fireworks.	Ironton, OH	Ohio River, Mile 328 (West Virginia).

These new recurring events would be reflected in the table in the general date order in which they will occur, and the

current recurring events would be reordered, as shown in the proposed regulatory text below.

This proposed rule would amend the following 4 safety zones to the existing Table 1 section 165.801 as follows:

Date	Event/sponsor	Ohio Valley location	Regulated area	Previously
1 day—within 2 weeks of Thanksgiving.	Pittsburgh Downtown Partnership/Light Up Night.	Pittsburgh, PA	Allegheny River, Mile 0.0–1.0 (Pennsylvania).	1 day—Friday before Thanksgiving.
1 day—First Sunday in June ..	West Virginia Orchestra/Symphony Sunday.	Charleston, WV	Kanawha River, Miles 59.5–60.5 (West Virginia).	1. 1 day—One weekend in June.
1 day—Last weekend in June or First weekend in July.	City of Point Pleasant Liberty Fest.	Point Pleasant, WV	Ohio River, Miles 265.2–266.2, Kanawha River Miles 0.0–0.5 (West Virginia).	City of Point Pleasant/Point Pleasant Sternwheel Fireworks.
1 day—First week or weekend in July.	Middleport Independence Day Celebration.	Middleport, OH	Ohio River, Miles 251.5–252.5 (Ohio) ..	Middleport Community Association.

This proposed rule would remove the following 4 safety zones from the

existing Table 1 section 165.801 as follows:

Date	Event/sponsor	Ohio Valley location	Regulated area
1 day—First weekend or week in July	Queen's Landing Fireworks	Greenup, KY	Ohio River, Miles 339.3–340.3 (West Virginia).

Date	Event/sponsor	Ohio Valley location	Regulated area
1 day—Labor Day	Portsmouth Labor Day Fireworks/ Hamburg Fireworks.	Portsmouth, OH	Ohio River, Mile 355.8–356.8 (Ohio).
1 day—Labor Day or first week of Sep- tember.	Labor Day Fireworks Show	Marmet, WV	Kanawha River, Miles 67.5–68 (West Virginia).
1 day—One weekend in September	Boomtown Days—Fireworks	Nitro, WV	Kanawha River, Miles 43.1–44.2 (West Virginia).

The effect of this proposed rule would be to restrict general navigation in the safety zones during the events. Vessels intending to transit the designated waterway through the safety zones would only be allowed to transit the area when the COTP, or a designated representative, has deemed it safe to do so or at the completion of the event. The proposed annually recurring safety zones are necessary to provide for the safety of life on navigable waters during the events.

IV. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This NPRM has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, the NPRM has not been reviewed by the Office of Management and Budget (OMB).

The Coast Guard expects the economic impact of this proposed rule to be minimal, therefore a full regulatory evaluation is unnecessary. This proposed rule would establish safety zones limiting access to certain areas under 33 CFR part 165 within Sector Ohio Valley’s AOR. The effect of this proposed rulemaking would not be significant because these safety zones would be limited in scope and duration. Additionally, the public would be given advance notification through the **Federal Register**, and/or Notices of Enforcement and, thus, will be able to plan operations around the safety zones. Broadcast Notices to Mariners, Local Notices to Mariners, and Safety Marine Information Broadcasts would inform the community of these safety zones. Vessel traffic would be allowed to request permission from the COTP or a designated representative to enter the

restricted areas. Broadcast Notices to Mariners, Local Notices to Mariners, and Safety Marine Information Broadcasts would inform the community of these safety zones. Vessel traffic would be allowed to request permission from the COTP or a designated representative to enter the restricted areas.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section IV.A above this proposed rule would not have a significant economic impact on any vessel owner or operator.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this proposed rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

C. Collection of Information

This proposed rule would not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132 (Federalism), if it has a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this proposed rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this proposed rule does not have tribal implications under Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments) because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this proposed rule has implications for federalism or Indian tribes, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the potential effects of this proposed rule elsewhere in this preamble.

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Directive 023–01, Rev. 1,

associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. Normally such actions are categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A preliminary Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places, or vessels.

V. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking, and

will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

Submitting comments. We encourage you to submit comments through the Federal Decision Making Portal at <https://www.regulations.gov>. To do so, go to <https://www.regulations.gov>, type USCG–2022–0928 in the search box and click “Search.” Next, look for this document in the Search Results column, and click on it. Then click on the Comment option. If you cannot submit your material by using <https://www.regulations.gov>, call or email the person in the **FOR FURTHER INFORMATION CONTACT** section of this proposed rule for alternate instructions.

Viewing material in docket. To view documents mentioned in this proposed rule as being available in the docket, find the docket as described in the previous paragraph, and then select “Supporting & Related Material” in the Document Type column. Public comments will also be placed in our online docket and can be viewed by following instructions on the <https://www.regulations.gov> Frequently Asked Questions web page. We review all comments received, but we will only post comments that address the topic of the proposed rule. We may choose not

to post off-topic, inappropriate, or duplicate comments that we receive.

Personal information. We accept anonymous comments. Comments we post to <https://www.regulations.gov> will include any personal information you have provided. For more about privacy and submissions to the docket in response to this document, see DHS’s eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard is proposing to amend 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 46 U.S.C. 70034, 70051; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 00170.1, Revision No. 01.3.

■ 2. In § 165.801, revise table 1 to read as follows:

§ 165.801 Annual Fireworks displays and other events in the Eighth Coast Guard District recurring safety zones.

* * * * *

TABLE 1 TO § 165.801—SECTOR OHIO VALLEY ANNUAL AND RECURRING SAFETY ZONES

Date	Sponsor/name	Sector Ohio Valley location	Safety zone
1. 3 days—Third or Fourth weekend in April	Henderson Breakfast Lions Club Tri-Fest	Henderson, KY	Ohio River, Miles 802.5–805.5 (Kentucky).
2. 2 days—Third Friday and Saturday in April	Thunder Over Louisville	Louisville, KY	Ohio River, Mile 597.0–604.0 (Kentucky).
3. Multiple days—April through November ...	Pittsburgh Pirates Season Fireworks	Pittsburgh, PA	Allegheny River, Miles 0.2–0.9 (Pennsylvania).
4. Multiple days—April through November ...	Cincinnati Reds Season Fireworks	Cincinnati, OH	Ohio River, Miles 470.1–470.4; extending 500 ft. from the State of Ohio shoreline (Ohio).
5. Multiple days—April through November ...	Pittsburgh Riverhounds Season Fireworks ..	Pittsburgh, PA	Monongahela River, Miles 0.22–0.77 (Pennsylvania).
6. 1 day—First week in May	Belterra Park Gaming Fireworks	Cincinnati, OH	Ohio River, Miles 460.0–462.0 (Ohio).
7. 1 day—One Friday in May prior to memorial day.	Live on the Levee Memorial Day Fireworks/ City of Charleston.	Charleston, WV	Kanawha River, Mile 58.1–59.1 (West Virginia).
8. 1 day—Saturday before Memorial Day	Venture Outdoors Festival	Pittsburgh, PA	Allegheny River, Miles 0.0–0.25; Monongahela River, Miles 0.0–0.25 (Pennsylvania).
9. 1 day—Saturday before Memorial Day	Ironton-Lawrence County Memorial Day Fireworks.	Ironton, OH	Ohio River, Mile 328 (West Virginia).
10. 1 day—First Sunday in June	West Virginia Symphony Orchestra/Symphony Sunday.	Charleston, WV	Kanawha River, Miles 59.5–60.5 (West Virginia).
11. 3 days in June	CMA Festival	Nashville, TN	Cumberland River, Miles 190.7–191.1 extending 100 feet from the left descending bank (Tennessee).
12. 1 day in June	Cumberland River Compact/Nashville Splash Bash.	Nashville, TN	Cumberland River, Miles 189.7–192.1 (Tennessee).
13. 2 days—A weekend in June	Rice’s Landing Riverfest	Rice’s Landing, PA	Monongahela River, Miles 68.0–68.8 (Pennsylvania).
14. 2 days—Second Friday and Saturday in June.	City of Newport, KY/Italianfest	Newport, KY	Ohio River, Miles 468.6–471.0 (Kentucky and Ohio).

TABLE 1 TO § 165.801—SECTOR OHIO VALLEY ANNUAL AND RECURRING SAFETY ZONES—Continued

Date	Sponsor/name	Sector Ohio Valley location	Safety zone
15. 1 day in June	Friends of the Festival, Inc./Riverbend Festival Fireworks.	Chattanooga, TN	Tennessee River, Miles 462.7–465.2 (Tennessee).
16. 1 day in June	Junteenth/Black Complex of Louisville	Louisville, KY	Ohio River, Miles 603.5–604.5.
17. 1 day in June	CMA Festival Fireworks	Nashville, TN	Cumberland River 190–191 (Tennessee).
18. 1 day—Second or Third week of June ...	TriState Pottery Festival Fireworks	East Liverpool, OH	Ohio River, Miles 42.5–45.0 (Ohio).
19. 3 days—One of the last three weekends in June.	Hadi Shrine/Evansville Freedom Festival Air Show.	Evansville, IN	Ohio River, Miles 790.0–796.0 (Indiana).
20. One weekend in June	Alzheimer's Water Lantern Festival/IC Care	Wheeling, WV	Ohio River Mile 90.3–91.8.
21. 1 day—Last weekend in June or first weekend in July.	Riverview Park Independence Festival	Louisville, KY	Ohio River, Miles 617.5–620.5 (Kentucky).
22. 1 day—Last weekend in June or First weekend in July.	City of Point Pleasant/Point Pleasant Sternwheel Fireworks.	Point Pleasant, WV	Ohio River, Miles 265.2–266.2, Kanawha River Miles 0.0–0.5 (West Virginia).
23. 1 day—Last weekend in June or first weekend in July.	City of Aurora/Aurora Firecracker Festival ...	Aurora, IN	Ohio River, Mile 496.7; 1400 ft. radius from the Consolidated Grain Dock located along the State of Indiana shoreline at (Indiana and Kentucky).
24. 1 day—Last week of June or first week of July.	PUSH Beaver County/Beaver County Boom	Beaver, PA	Ohio River, Miles 25.2–25.6 (Pennsylvania).
25. 1 day—Last weekend in June or first week in July.	Evansville Freedom Celebration/4th of July Fireworks.	Evansville, IN	Ohio River, Miles 790.0–796.0 (Indiana).
26. 1 day—Last week in June or First week in July.	Rising Sun Fireworks	Rising Sun, IN	Ohio River, Miles 506.0–507.0 (Indiana).
27. 1 day—Weekend before the 4th of July	Kentucky Dam Marine/Kentucky Dam Marina Fireworks.	Gilbertsville, KY	350 foot radius, from the fireworks launch site, on the entrance jetties at Kentucky Dam Marina, on the Tennessee River at Mile Marker 23 (Kentucky).
28. 1 day in July	Clarksville Independence Day Fireworks	Ashland City, TN	Cumberland River, Miles 127–129 (Tennessee).
29. 1 day in July	Gallatin Marina Fireworks	Gallatin, TN	Cumberland River, Miles 236.5–237.5 (Tennessee).
30. 1 day in July	Town of Cumberland City/Lighting up the Cumberlands.	Cumberland City, TN	Cumberland River, Miles 103.0–105.5 (Tennessee).
31. 1 day in July	Chattanooga Presents/Pops on the River ...	Chattanooga, TN	Tennessee River, Miles 462.7–465.2 (Tennessee).
32. 1 day in July	Randy Boyd/Independence Celebration Fireworks Display.	Knoxville, TN	Tennessee River, Miles 625.0–628.0 (Tennessee).
33. 1 day—July 3rd	Moors Resort and Marina/Kentucky Lake Big Bang.	Gilbertsville, KY	600 foot radius, from the fireworks launch site, on the entrance jetty to Moors Resort and Marina, on the Tennessee River at mile marker 30.5 (Kentucky).
34. 1 day—3rd or 4th of July	City of Paducah, KY	Paducah, KY	Ohio River, Miles 934.0–936.0; Tennessee River, Miles 0.0–1.0 (Kentucky).
35. 1 day—3rd or 4th of July	City of Hickman, KY/Town Of Hickman Fireworks.	Hickman, KY	700 foot radius from GPS coordinate 36°34.5035 N, 089°11.919 W, in Hickman Harbor located at mile marker 921.5 on the Lower Mississippi River (Kentucky).
36. 1 day—July 4th	City of Knoxville/Knoxville Festival on the 4th.	Knoxville, TN	Tennessee River, Miles 646.3–648.7 (Tennessee).
37. 1 day in July	Nashville NCVC/Independence Celebration	Nashville, TN	Cumberland River, Miles 189.7–192.3 (Tennessee).
38. 1 day in July	Shoals Radio Group/Spirit of Freedom Fireworks.	Florence, AL	Tennessee River, Miles 254.5–257.4 (Alabama).
39. 1 day—4th of July (Rain date—July 5th)	Monongahela Area Chamber of Commerce/ Monongahela 4th of July Celebration.	Monongahela, PA	Monongahela River, Miles 032.0–033.0 (Pennsylvania).
40. 1 day—July 4th	Cities of Cincinnati, OH and Newport, KY/ July 4th Fireworks.	Newport, KY	Ohio River, Miles 469.6–470.2 (Kentucky and Ohio).
41. 1 day—July 4th	Wellsburg 4th of July Committee/Wellsburg 4th of July Freedom Celebration.	Wellsburg, WV	Ohio River, Miles 73.5–74.5 (West Virginia).
42. 1 day—week of July 4th	Wheeling Symphony fireworks	Wheeling, WV	Ohio River, Miles 90–92 (West Virginia).
43. 1 day—First week or weekend in July ...	Summer Motions Inc./Summer Motion	Ashland, KY	Ohio River, Miles 322.1–323.1 (Kentucky).
44. 1 day—week of July 4th	Chester Fireworks	Chester, WV	Ohio River mile 42.0–44.0 (West Virginia).
45. 1 day—First week of July	Toronto 4th of July Fireworks	Toronto, OH	Ohio River, Mile 58.2–58.8 (Ohio).
46. 1 day—First week of July	Cincinnati Symphony Orchestra	Cincinnati, OH	Ohio River, Miles 460.0–462.0 (Ohio).
47. 1 day—First week or weekend in July ...	Gallia County Chamber of Commerce/Gallipolis River Recreation Festival.	Gallipolis, OH	Ohio River, Miles 269.5–270.5 (Ohio).
48. 1 day—First week or weekend in July ...	Kindred Communications/Dawg Dazzle	Huntington, WV	Ohio River, Miles 307.8–308.8 (West Virginia).
49. 1 day—First week or weekend in July ...	Greenup City	Greenup, KY	Ohio River, Miles 335.2–336.2 (Kentucky).
50. 1 day—First week or weekend in July ...	Middleport Community Association	Middleport, OH	Ohio River, Miles 251.5–252.5 (Ohio).
51. 1 day—First week or weekend in July ...	People for the Point Party in the Park	South Point, OH	Ohio River, Miles 317–318 (Ohio).
52. 1 day—One of the first two weekends in July.	City of Bellevue, KY/Bellevue Beach Park Concert Fireworks.	Bellevue, KY	Ohio River, Miles 468.2–469.2 (Kentucky & Ohio).
53. 1 day—First Week of July	Pittsburgh 4th of July Celebration	Pittsburgh, PA	Ohio River, Miles 0.0–0.5, Allegheny River, Miles 0.0–0.5, and Monongahela River, Miles 0.0–0.5 (Pennsylvania).
54. 1 day—First week or weekend in July ...	City of Charleston/City of Charleston Independence Day Celebration.	Charleston, WV	Kanawha River, Miles 58.1–59.1 (West Virginia).
55. 1 day—First week or weekend in July ...	Portsmouth River Days	Portsmouth, OH	Ohio River, Miles 355.5–357.0 (Ohio).
56. 1 day—During the first week of July	Louisville Bats Baseball Club/Louisville Bats Firework Show.	Louisville, KY	Ohio River, Miles 602.0–605.0 (Kentucky).

TABLE 1 TO § 165.801—SECTOR OHIO VALLEY ANNUAL AND RECURRING SAFETY ZONES—Continued

Date	Sponsor/name	Sector Ohio Valley location	Safety zone
57. 1 day—During the first week of July	Waterfront Independence Festival/Louisville Orchestra Waterfront 4th.	Louisville, KY	Ohio River, Miles 602.0–605.0 (Kentucky).
58. 1 day—During the first week of July	Celebration of the American Spirit Fireworks/All American 4th of July.	Owensboro, KY	Ohio River, Miles 754.0–760.0 (Kentucky).
59. 1 day—During the first week of July	Riverfront Independence Festival Fireworks	New Albany, IN	Ohio River, Miles 606.5–609.6 (Indiana).
60. 1 day in July	Grand Harbor Marina/Grand Harbor Marina July 4th Celebration.	Counce, TN	Tennessee-Tombigbee Waterway, Miles 448.5–451.0 (Tennessee).
61. 1 night in July	Steubenville fireworks	Steubenville, OH	Ohio River Mile 67.5–68.5
62. 1 day—During the first two weeks of July.	City of Maysville Fireworks	Maysville, KY	Ohio River, Miles 408–409 (Kentucky).
63. 1 day—One of the first two weekends in July.	Madison Regatta, Inc./Madison Regatta	Madison, IN	Ohio River, Miles 554.0–561.0 (Indiana).
64. 1 day—Third Saturday in July	Pittsburgh Irish Rowing Club/St. Brendan's Cup Currach Regatta.	Pittsburgh, PA	Ohio River, Miles 7.0–9.0 (Pennsylvania).
65. 1 day—Third or fourth week in July	Upper Ohio Valley Italian Heritage Festival/Upper Ohio Valley Italian Heritage Festival Fireworks.	Wheeling, WV	Ohio River, Miles 90.0–90.5 (West Virginia).
66. 1 day—Saturday Third or Fourth full week of July (Rain date—following Sunday).	Oakmont Yacht Club/Oakmont Yacht Club Fireworks.	Oakmont, PA	Allegheny River, Miles 12.0–12.5 (Pennsylvania).
67. 2 days—One weekend in July	Marietta Riverfront Roar Fireworks	Marietta, OH	Ohio River, Miles 171.6–172.6 (Ohio).
68. 1 day—Last weekend in July or first weekend in August.	Fort Armstrong Folk Music Festival	Kittanning, PA	Allegheny River, Mile 45.1–45.5 (Pennsylvania).
69. 1 day in August	Music City Grand Prix Fireworks	Nashville, TN	Cumberland River 190–191 (Tennessee).
70. 1 day in August	Nashville ASAE Fireworks	Nashville, TN	Cumberland River 190–191 (Tennessee).
71. 3 Days in August	Music City Grand Prix	Nashville, TN	Cumberland River 190–191 (Tennessee).
72. 1 day—First week in August	Gliers Goetta Fest LLC	Newport, KY	Ohio River, Miles 469.0–471.0.
73. 1 day—First or second week of August	Bellaire All-American Days	Bellaire, OH	Ohio River, Miles 93.5–94.5 (Ohio).
74. 1 day—Second full week of August	PA FOB Fireworks Display	Pittsburgh, PA	Allegheny River, Miles 0.8–1.0 (Pennsylvania).
75. 1 day—Second Saturday in August	Guyasuta Days Festival/Borough of Sharpsburg.	Pittsburgh, PA	Allegheny River, Miles 005.5–006.0 (Pennsylvania).
76. 1 day—In the Month of August	Pittsburgh Foundation/Bob O'Connor Cookie Cruise.	Pittsburgh, PA	Ohio River, Mile 0.0–0.5 (Pennsylvania).
77. 1 day—Third week of August	Beaver River Regatta Fireworks	Beaver, PA	Ohio River, Miles 25.2–25.8 (Pennsylvania).
78. 1 day—One weekend in August	Parkersburg Homecoming Festival-Fireworks.	Parkersburg, WV	Ohio River, Miles 183.5–185.5 (West Virginia).
79. 1 day—One weekend in August	Ravenswood River Festival	Ravenswood, WV	Ohio River, Miles 220–221 (West Virginia).
80. 1 day—The second or third weekend of August.	Green Turtle Bay Resort/Grand Rivers Marina Day.	Grand Rivers, KY	420 foot radius, from the fireworks launch site, at the entrance to Green Turtle Bay Resort, on the Cumberland River at mile marker 31.5 (Kentucky).
81. 1 day—last 2 weekends in August/first week of September.	Wheeling Dragon Boat Race	Wheeling, WV	Ohio River, Miles 90.4–91.5 (West Virginia).
82. 1 day—One weekend in the month of August or September.	Owensboro Fireworks and Bridge Lights show.	Owensboro, KY	Ohio River, Miles 756–757 (Kentucky).
83. Sunday, Monday, or Thursday from August through February.	Pittsburgh Steelers Fireworks	Pittsburgh, PA	Allegheny River, Miles 0.0–0.25, Ohio River, Miles 0.0–0.1, Monongahela River, Miles 0.0–0.1 (Pennsylvania).
84. 1 day—One weekend before Labor Day	Riverfest/Riverfest Inc	Nitro, WV	Kanawha River, Miles 43.1–44.2 (West Virginia).
85. 1 day—The weekend of Labor Day	Newburgh Fireworks Display	Newburgh, IN	Ohio River, Miles 777.3–778.3 (Indiana).
86. 2 days—Sunday before Labor Day and Labor Day.	Cincinnati Bell, WEBN, and Proctor and Gamble/Riverfest.	Cincinnati, OH	Ohio River, Miles 469.2–470.5 (Kentucky and Ohio) and Licking River, Miles 0.0–3.0 (Kentucky).
87. 1 day in September	Nashville Symphony/Concert Fireworks	Nashville, TN	Cumberland River, Miles 190.1–192.3 (Tennessee).
88. 1 day—Second weekend in September	City of Clarksville/Clarksville Riverfest	Clarksville, TN	Cumberland River, Miles 124.5–127.0 (Tennessee).
89. 3 days—Second or third week in September.	Wheeling Heritage Port Sternwheel Festival Foundation/Wheeling Heritage Port Sternwheel Festival.	Wheeling, WV	Ohio River, Miles 90.2–90.7 (West Virginia).
90. 1 day—One weekend in September	Ohio River Sternwheel Festival Committee fireworks.	Marietta, OH	Ohio River, Miles 171.5–172.5 (Ohio).
91. 1 day—One weekend in September	Tribute to the River	Point Pleasant, WV	Ohio River, Miles 264.6–265.6 (West Virginia).
92. 1 day—One weekend in September	Aurora Fireworks	Aurora, IN	Ohio River, Mile 496.3–497.3 (Ohio).
93. 1 day—Last two weekends in September.	Cabana on the River	Cincinnati, OH	Ohio River, Mile 483.2–484.2 (Ohio).
94. Multiple days—September through January.	University of Pittsburgh Athletic Department/University of Pittsburgh Fireworks.	Pittsburgh, PA	Ohio River, Miles 0.0–0.1, Monongahela River, Miles 0.0–0.1, Allegheny River, Miles 0.0–0.25 (Pennsylvania).
95. 1 day—First three weeks of October	Leukemia & Lymphoma Society/Light the Night.	Pittsburgh, PA	Ohio River, Mile 0.0–0.5, Allegheny River, Mile 0.0–0.5, and Monongahela River, Mile 0.0–0.5 (Pennsylvania).
96. 1 day in October	Leukemia and Lymphoma Society/Light the Night Walk Fireworks.	Nashville, TN	Cumberland River, Miles 189.7–192.1 (Tennessee).
97. 1 day—First two weeks in October	Yeatman's Fireworks	Cincinnati, OH	Ohio River, Miles 469.0–470.5 (Ohio).
98. 1 day—One weekend in October	West Virginia Motor Car Festival	Charleston, WV	Kanawha River, Miles 58–59 (West Virginia).

TABLE 1 TO § 165.801—SECTOR OHIO VALLEY ANNUAL AND RECURRING SAFETY ZONES—Continued

Date	Sponsor/name	Sector Ohio Valley location	Safety zone
99. 2 days—One of the last three weekends in October.	Monster Pumpkin Festival	Pittsburgh, PA	Allegheny River, Mile 0.0–0.25 (Pennsylvania).
100. 1 day—Within two weeks of Thanksgiving.	Pittsburgh Downtown Partnership/Light Up Night.	Pittsburgh, PA	Allegheny River, Miles 0.0–1.0 (Pennsylvania).
101. 1 day—Friday before Thanksgiving	Kittanning Light Up Night Firework Display ..	Kittanning, PA	Allegheny River, Miles 44.5–45.5 (Pennsylvania).
102. 1 day—within 2 weeks of Thanksgiving	Santa Spectacular/Light up Night	Pittsburgh, PA	Ohio River, Mile 0.0–0.5, Allegheny River, Mile 0.0–0.5, and Monongahela River, Mile 0.0–0.5 (Pennsylvania).
103. 1 day—Friday before Thanksgiving	Monongahela Holiday Show	Monongahela, PA	Ohio River, Miles 31.5–32.5 (Pennsylvania).
104. 1 day in November	Friends of the Festival/Cheer at the Pier	Chattanooga, TN	Tennessee River, Miles 462.7–465.2 (Tennessee).
105. 1 day—Third week of November	Gallipolis in Lights	Gallipolis, OH	Ohio River, Miles 269.2–270 (Ohio).
106. 1 day—December 31	Pittsburgh Cultural Trust/Highmark First Night Pittsburgh.	Pittsburgh, PA	Allegheny River, Miles 0.5–1.0 (Pennsylvania).
107. 7 days—Scheduled home games	University of Tennessee/UT Football Fireworks.	Knoxville, TN	Tennessee River, Miles 645.6–648.3 (Tennessee).

* * * *

Dated: January 11, 2023.

H.R. Mattern,*Captain, U.S. Coast Guard, Captain of the Port Sector Ohio Valley.*

[FR Doc. 2023–00924 Filed 1–20–23; 8:45 am]

BILLING CODE 9110–04–P

POSTAL SERVICE**39 CFR Part 111****Mailing Currency****AGENCY:** Postal Service™.**ACTION:** Proposed rule.

SUMMARY: The Postal Service is proposing to amend *Mailing Standards of the United States Postal Service*, Domestic Mail Manual (DMM®) subsections 503.2.1 and 601.1.0 to clarify mailing standards for currency.

DATES: Submit comments on or before February 22, 2023.

ADDRESSES: Mail or deliver written comments to the manager, Product Classification, U.S. Postal Service, 475 L'Enfant Plaza SW, Room 4446, Washington, DC 20260–5015. If sending comments by email, include the name and address of the commenter and send to PCFederalRegister@usps.gov, with a subject line of “Mailing Currency”. Faxed comments are not accepted.

Confidentiality

All submitted comments and attachments are part of the public record and subject to disclosure. Do not enclose any material in your comments that you consider to be confidential or inappropriate for public disclosure.

You may inspect and photocopy all written comments, by appointment only, at USPS® Headquarters Library, 475 L'Enfant Plaza SW, 11th Floor

North, Washington, DC 20260. These records are available for review on Monday through Friday, 9 a.m.–4 p.m., by calling 202–268–2906.

FOR FURTHER INFORMATION CONTACT: Dale Kennedy at (202) 268–6592 or Garry Rodriguez at (202) 268–7281.

SUPPLEMENTARY INFORMATION:

The Postal Service is proposing to revise subsection 503.2.1 to require commercial cash deposits over \$500.00 be sent using Registered Mail® service.

As more business customers look to the Postal Service to mail their cash deposits, it has become necessary to determine the most appropriate method to meet this mailing need. As a result, the Postal Service has determined that requiring commercial cash deposits over \$500.00 be sent using Registered Mail, our most secured service, would benefit both customers and the Postal Service.

In addition, the Postal Service is proposing to add new subsection 601.1.3, *Mailing Currency*, to provide clarity in the mailing of currency including the requirement to send commercial cash deposits over \$500.00 as Registered Mail.

The Postal Service is proposing to implement this change effective March 1, 2023.

The Postal Service believes this proposed revision will provide customers with a safe and secure service for their mailing needs.

Although exempt from the notice and comment requirements of the Administrative Procedure Act (5 U.S.C. 553(b), (c)) regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service invites public comment on the following proposed revisions to *Mailing Standards of the United States Postal Service*, Domestic Mail Manual (DMM), incorporated by reference in the Code of Federal Regulations. See 39 CFR 111.1.

We will publish an appropriate amendment to 39 CFR part 111 to reflect these changes.

List of Subjects in 39 CFR Part 111

Administrative practice and procedure.

Accordingly, 39 CFR part 111 is proposed to be amended as follows:

PART 111—[AMENDED.]

■ 1. The authority citation for 39 CFR part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 13 U.S.C. 301–307; 18 U.S.C. 1692–1737; 39 U.S.C. 101, 401–404, 414, 416, 3001–3018, 3201–3220, 3401–3406, 3621, 3622, 3626, 3629, 3631–3633, 3641, 3681–3685, and 5001.

■ 2. Revise the *Mailing Standards of the United States Postal Service*, Domestic Mail Manual (DMM) as follows:

Mailing Standards of the United States Postal Service, Domestic Mail Manual (DMM)

* * * *

500 Additional Mailing Services**503 Extra Services**

* * * *

* * * *

2.0 Registered Mail**2.1 Basic Standards**

* * * *

[Revise the text of 2.1 by adding new 2.1.6 to read as follows:]

2.1.6 Mailing Cash Deposits

Items mailed containing commercial cash deposits over \$500.00 must be sent as Registered Mail (see 601.1.3.4).

* * * *

600 Basic Standards for All Mailing Services**601 Mailability**

* * * * *

[Renumber 1.3 and 1.4 as 1.4 and 1.5, respectively, and add new 1.3 to read as follows:]

1.3 Mailing Currency**1.3.1 General**

Currency (*i.e.*, coins), Federal Reserve notes or other bank notes is mailable under any class of mail except where prohibited by standards.

1.3.2 Insurance

Except for philatelic items and numismatic coins under 609.4.1g, eligible classes of mail containing currency may be insured with a maximum indemnity of \$15.00.

1.3.3 Registered Mail

Except under 1.3.4, eligible classes of mail containing currency may use Registered Mail service with included insurance payable at full value up to the applicable limit. (see 503.2.2.1).

1.3.4 Mailing Cash Deposits

The following standards apply for sending commercial cash deposits over \$500.00:

- a. Mailers must use Registered Mail service under 503.2.1.6.
- b. Mailers must not use any USPS-provided packaging.

* * * * *

Tram T. Pham,

Attorney, Ethics and Legal Compliance.

[FR Doc. 2023–01214 Filed 1–20–23; 8:45 am]

BILLING CODE P

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 261**

[EPA–R06–RCRA–2022–0781; FRL–10238–01–Region 6]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste Proposed Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to grant an exclusion from the list of hazardous wastes to ExxonMobil Baytown Refinery (EMBR or Petitioner) located in Baytown, Texas. This action responds to a petition to exclude (or “delist”) up to 2,409 cubic yards per year of API

separator sludge—from the list of federal hazardous wastes when disposed of in a Subtitle D Landfill. Resource Conservation Recovery Act (RCRA). The EPA is proposing to grant the petition based on an evaluation of waste-specific information provided by Petitioner.

DATES: Comments on this proposed exclusion must be received by February 22, 2023.

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

- **Federal eRulemaking Portal:** <https://www.regulations.gov>. Follow the on-line instructions for submitting comments.
- **Email:** shah.harry@epa.gov.

Instructions: The EPA must receive your comments by February 22, 2023. Direct your comments to Docket ID Number EPA–R06–RCRA–2022–0781. The EPA’s policy is that all comments received will be included in the public docket without change and may be made available online at <https://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI), or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <https://www.regulations.gov>, or email. The Federal [regulations.gov](https://www.regulations.gov) website is an “anonymous access” system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through [regulations.gov](https://www.regulations.gov), your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment with any CBI you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption and be free of any defects or viruses.

Docket: The index to the docket for this action is available electronically at www.regulations.gov. Although listed in the index, some information is not publicly available, *e.g.*, CBI or other information whose disclosure is restricted by statute. Certain other

material, such as copyrighted material, will be publicly available only in hard copy.

You can view and copy the delisting petition and associated publicly available docket materials either through www.regulations.gov or at: EPA, Region 6, 1201 Elm Street, Suite 500, Dallas, Texas 75270. The EPA facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays and facility closures due to COVID–19. The EPA recommend that you telephone Harry Shah, at (214) 665–6457, before visiting the Region 6 office. Interested persons wanting to examine these documents should make an appointment with the office.

FOR FURTHER INFORMATION CONTACT:

Harry Shah, (214) 665–6457, shah.harry@epa.gov. Out of an abundance of caution for members of the public and our staff, the EPA Region 6 office may be closed to the public to reduce the risk of transmitting COVID–19. The EPA encourage the public to submit comments via <https://www.regulations.gov>, as there will be a delay in processing mail and no courier or hand deliveries will be accepted. Please call or email the contact listed above if you need alternative access to material indexed but not provided in the docket.

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I. Overview Information

The EPA is proposing to grant a May 2021 petition (“K051 Delisting Petition”) request submitted by EMBR in Baytown, Texas to exclude (or “delist”) up to 2,409 cubic yards per year K051 API separator sludge from the list of federal hazardous waste set forth in 40 CFR 261.3 (hereinafter, all sectional references are to 40 CFR unless otherwise indicated) for offsite disposal. The Petitioner claims that the petitioned wastes do not meet the criteria for which the EPA listed it, and that there are no additional constituents or factors which could cause the waste to be hazardous. Based on our review described in Section III, the EPA propose to approve the petition request, and allow the delisted waste to be disposed in a Subtitle D landfill. A copy of the May 2021 petition is located in the docket to this proposal action.

II. Background

A. What is the history of the delisting program?

The EPA published an amended list of hazardous wastes from non-specific and specific sources on January 16, 1981, as part of its final and interim final regulations implementing section 3001 of RCRA. The EPA has amended this list several times and codifies the list in §§ 261.31 and 261.32.

The EPA lists the Petitioner’s wastes as hazardous because: (1) the wastes typically and frequently exhibit one or more of the characteristics of hazardous wastes identified in Subpart C of part 261 (that is, ignitability, corrosivity, reactivity, and toxicity), (2) the wastes meet the criteria for listing contained in §§ 261.11(a)(2) or (3), or (3) the wastes are mixed with or derived from the treatment, storage or disposal of such characteristic and listed wastes and which therefore become hazardous under §§ 261.3(a)(2)(iv) or (c)(2)(i), known as the “mixture” or “derived-from” rules, respectively.

Individual waste streams may vary, however, depending on raw materials, industrial processes, and other factors. Thus, while a waste described in these part 261 regulations or resulting from the operation of the mixture or derived-from rules generally is hazardous, a specific waste from an individual facility may not be hazardous.

For this reason, 40 CFR 260.20 and 260.22 provide an exclusion procedure,

called delisting, which allows persons to prove that the EPA should not regulate a specific waste from a particular generating facility as a hazardous waste.

B. What is a delisting petition, and what does it require of a petitioner?

A delisting petition is a request from a facility to the EPA or an authorized state to exclude wastes from the list of hazardous wastes. The facility petitions the EPA because it does not consider the waste as hazardous under RCRA regulations.

In a delisting petition, the petitioner must show that wastes generated at a particular facility do not meet any of the criteria for which the waste was listed. The criteria for which the EPA lists a waste are in 40 CFR part 261 and further explained in the background documents for the listed waste in the April 1988 publication of the “Proposed Best Demonstrated Available Technology (BDAT) Background Document for Petroleum Refining Treatability Group (K048, K049, K050, K051, K052)” (<https://nepis.epa.gov/Exe/ZyNET.exe/2000ERGU.TXT?ZyActionD=ZyDocument&Client=EPA&Index=1986+Thru+1990&Docs=&Query=&Time=&EndTime=&SearchMethod=1&TocRestrict=n&Toc=&TocEntry=&QField=&QFieldYear=&QFieldMonth=&QFieldDay=&IntQFieldOp=0&ExtQFieldOp=0&XmlQuery=&File=D%3A%5Czyfiles%5CIndex%20Data%5C86thru90%5CTxt%5C00000002%5C2000ERGU.txt&User=ANONYMOUS&Password=anonymous&SortMethod=h%7C-&MaximumDocuments=1&FuzzyDegree=0&ImageQuality=r75g8/r75g8/x150y150g16/i425&Display=hpfr&DefSeekPage=x&SearchBack=ZyActionL&Back=ZyActionS&BackDesc=Results%20page&MaximumPages=1&ZyEntry=1&SeekPage=x&ZyPURL>).

In addition, under 40 CFR 260.22, a petitioner must prove that the waste does not exhibit any of the hazardous waste characteristics (that is, ignitability, reactivity, corrosivity, and toxicity) and must present sufficient information for the EPA to decide whether factors other than those for which the waste was listed warrant retaining it as a hazardous waste.

Generators remain obligated under RCRA to confirm whether their waste remains non-hazardous based on the hazardous waste characteristics even if the EPA has “delisted” the waste.

C. What factors must the EPA consider in deciding whether to grant a delisting petition?

Besides considering the criteria in 40 CFR 260.22(a) and 3001(f) of RCRA, 42 U.S.C. 6921(f), and in the background documents for the listed wastes, the EPA must consider any factors (including additional constituents) aside from those for which the EPA listed the waste, if a reasonable basis exists that these additional factors could cause the waste to be hazardous.

The EPA must also consider hazardous waste mixtures containing listed hazardous wastes and wastes derived from treating, storing, or disposing of listed hazardous waste. See §§ 261.3(a)(2)(iii and iv) and (c)(2)(i), called the “mixture” and “derived-from” rules, respectively. These wastes are also eligible for exclusion and remain hazardous wastes until excluded. See 66 FR 27266 (May 16, 2001).

D. Environmental Justice Evaluation

To better meet the EPA’s “responsibilities related to the protection of public health and the environment, the EPA has developed an environmental justice (EJ) mapping and screening tool called EJ Screen” that reports values as a percentile when compared to a state or the nation. “It is based on nationally consistent data and an approach that combines environmental and demographic indicators in maps and reports,” (<https://www.epa.gov/ejscreen>). The EPA is providing analysis of environmental justice associated with this action. The EPA are doing so for the purpose of providing information to the public, not as a basis of our final action.

The EPA utilized EJ Screen to evaluate potential environmental justice concerns in communities at one-, three-, and five-mile radiuses around the Baytown facility. The EPA considers the potential for EJ concerns in a community when one or more of the 12 EJ indices is at or above the 80th percentile when compared to the rest of the USA. At the one-mile radial measurement, all 12 EJ indices exceeded the 80th percentile, at the three-mile measurement, 11 out of the 12 EJ indices exceeded the 80th percentile, and at the five-mile radial measurement, four EJ indices exceeded the 80th percentile. This information is provided in Table 1. More information on EJ Screen, including an explanation of the 12 EJ indices can be found at www.epa.gov/ejscreen/what-ejscreen.

TABLE 1—EJ INDICES AT ONE-, THREE-, AND FIVE-MILE RADIUSES AROUND THE FACILITY

EJ Index (USA percentile)	1 Mile radius around the facility	3 Mile radius around the facility	5 Mile radius around the facility
EJ Index for Particulate Matter 2.5	86	81	74
EJ Index for Ozone	82	77	72
EJ Index for 2017 Diesel Particulate Matter	86	82	77
EJ Index for 2017 Air Toxics Cancer Risk	95	89	79
EJ Index for 2017 Air Toxics Respiratory HI	88	82	75
EJ Index for Traffic Proximity	83	81	78
EJ Index for Lead Paint	84	82	79
EJ Index for Superfund Proximity	87	87	84
EJ Index for RMP Facility Proximity	97	94	88
EJ Index for Hazardous Waste Proximity	86	81	74
EJ Index for Underground Storage Tanks	86	85	81
EJ Index for Wastewater Discharge	90	87	85

III. The EPA's Evaluation of the Waste Information and Data

A. What waste did the Petitioner petition the EPA to delist?

In May 2021, EMBR petitioned the EPA to exclude from the list of hazardous wastes contained in § 261.31, API separator sludge (K051) generated from its facility located in Baytown, Texas. The waste falls under the classification of listed waste pursuant to § 261.31. Specifically, in its petition, EMBR requested that the EPA grant a standard exclusion for 2,409 cubic yards per year of the API separator sludge for offsite disposal.

B. How did the Petitioner generate the waste?

Industrial wastewaters generated at the facility are mainly routed through three sewer systems (west, central and east). Industrial wastewater from the Baytown Chemical Plant and the Baytown Olefins plant are routed

through the west sewer, ultimately discharging into Preseparator 14. Industrial wastewater from refinery process units and the Demineralization Plant are routed through the central sewer, ultimately discharging into Preseparator 13; industrial wastewaters from refinery process units, the Sour Water Strippers, Wastewater Strippers and the Velasco Street ditch are routed through the east sewer and ultimately discharge into Preseparator 15. The wastewater then travels through the stormwater diversion box, through a lift station, to API Separator 12, Wastewater Oxidation Unit (WOU), wastewater lagoons, and ultimately to the Houston Ship Channel. The API separator also receives industrial wastewater in the form of treated effluent from the Sanitary Treatment Plant. The API separator allows for gravitational separation of phases (oil, water, and solids) during residence time in the unit. Free oil is skimmed off for reprocessing; whereas, settled sludge

(solids) are first pumped to Solids Removal Unit 1 and then sent off-site to a Thermal Desorption Unit or for off-site disposal as a listed hazardous waste.

C. How did the Petitioner sample and analyze the petitioned waste?

A total of four (1 sample per month for 4 months) acceptable sample results were provided by the Petitioner to support the petition. The EPA considered all 4 samples of the API separator sludge and the disposal scenario of the landfill was modeled using the Delisting Risk Assessment Software. The worst-case scenario of the constituents' concentrations for the K051 sludge were used as input in the model to determine if it would meet the hazardous waste criteria for which it was listed. The maximum total and leachate concentrations for the inorganic and organic constituents which were found in the analytical data provided by Petitioner are presented in Table 2.

TABLE 2—MAXIMUM TOTAL AND TCLP CONCENTRATIONS

Chemical name	Maximum total concentration (mg/kg)	Maximum TCLP concentration (mg/l)
Acenaphthene	6.7	0.0015
Acenaphthylene	1.6	0.0003
Aniline (benzeneamine)	3.1	0.0014
Anthracene	7.5	0.0003
Antimony	0.968	0.0296
Arsenic	3.81	0.0362
Barium	82.4	0.397
Benz(a)anthracene	0.56	0.0003
Benzene	0.21	0.012
Benzo(a)pyrene	0.37	0.0004
Benzo(b)fluoranthene	0.46	0.0004
Benzo(ghi)perylene	0.24	0.0003
Benzo(k)fluoranthene	0.34	0.0007
Beryllium	0.542	0.002
Bis(2-ethylhexyl)phthalate	0.53	0.0008
Cadmium	0.592	0.002
Chromium (III) (Chromic Ion)	27.5	0.121
Chrysene	0.91	0.0008
Cobalt	3.22	0.0134

TABLE 2—MAXIMUM TOTAL AND TCLP CONCENTRATIONS—Continued

Chemical name	Maximum total concentration (mg/kg)	Maximum TCLP concentration (mg/l)
Copper	50.2	0.0723
Cresol m-	21	0.17
Cresol o-	5.6	0.066
Cresol p-	21	0.17
DDD	0.043	2.00E-05
DDE	0.043	2.00E-05
DDT p,p'-	0.03	2.20E-05
Dibenzofuran	13	0.0004
Dimethylphenol, 2,4-	3.7	0.028
Endosulfan (Endosulfan I and II, mixture)	0.104	3.00E-05
Endrin	0.061	3.00E-05
Ethylbenzene	1.1	0.011
Fluoranthene	2.5	0.0004
Fluorene	20	0.0011
HCH, alpha- (Hexachlorocyclohexane alpha-BHC)	0.25	1.00E-05
HCH, beta- (Hexachlorocyclohexane beta-BHC)	0.045	1.00E-05
Heptachlor	0.00097	1.00E-05
Heptachlor epoxide	0.013	1.00E-05
Indeno (1,2,3-cd) pyrene	0.2	0.0006
Lead	59.6	0.329
Mercury (Fish Pathway Only)	0.445	0.000162
Mercury (Total)	0.445	0.000162
Methylnaphthalene 2-	52	0.0093
Naphthalene	46	0.0098
Naphthaquinone 1,4-	3.5	0.0006
Nickel	264	1.04
Phenanthrene	44	0.0014
Phenol	8.3	0.03
Pyrene	4.9	0.0003
Selenium	1.75	0.0193
Silver	0.0265	0.00211
Tetrachlorodibenzo-p-dioxin (TCDD) 2,3,7,8-	4.31E-07	8.62E-06
Thallium	0.213	0.00298
Tin	2.95	0.015
Toluene	1.1	0.026
Vanadium	600	12.7
Xylenes (total)	5.9	0.071
Zinc	398	1.15

D. What factors did the EPA consider in deciding whether to propose to grant the delisting petition?

In reviewing this petition, the EPA considered the original listing criteria and the additional factors required by the Hazardous and Solid Waste Amendments of 1984 (HSWA). See § 222 of HSWA, 42 U.S.C. 6921(f), and 40 CFR 260.22(d)(2) through (4). The EPA evaluated the petitioned wastes against the listing criteria and factors cited in §§ 261.11(a)(2) and (3).

In addition to the criteria in 40 CFR 260.22(a), 261.11(a)(2) and (3), 42 U.S.C. 6921(f), and in the background documents for the listed wastes, the EPA also considered factors (including additional constituents) other than those for which the EPA listed the waste to determine if these additional factors could cause the waste to be hazardous (See the background documents).

Our proposed decision to grant the May 2021 petition to delist the waste

from the Petitioner's facility in Baytown, Texas is based on our evaluation of the wastes for factors or criteria which could cause the waste to be hazardous. These factors included: (1) whether the waste is considered acutely toxic; (2) the toxicity of the constituents; (3) the concentration of the constituents in the waste; (4) the tendency of the constituents to migrate and to bioaccumulate; (5) the persistence in the environment of any constituents once released from the waste; (6) plausible and specific types of management of the petitioned waste; (7) the quantity of waste produced; and (8) waste variability.

The EPA must also consider as hazardous wastes mixtures containing listed hazardous wastes and wastes derived from treating, storing, or disposing of listed hazardous waste. See 40 CFR 261.3(a)(2)(iv) and (c)(2)(i), called the "mixture" and "derived-from" rules, respectively. Mixture and

derived-from wastes are also eligible for exclusion but remain hazardous until excluded.

E. How did the EPA evaluate the risk of delisting this waste?

For this proposed delisting determination, the EPA evaluated the risk that the waste would be disposed of as a non-hazardous waste in a landfill. The EPA considered transport of waste constituents through groundwater, surface water and air. The EPA evaluated the Petitioner's analysis of the petitioned waste using the Delisting Risk Assessment Software (DRAS) to predict the concentration of hazardous constituents that might be released from the petitioned waste and to determine if the waste would pose a threat to human health and the environment. The DRAS software and associated documentation can be found at www.epa.gov/hw/hazardous-waste-delisting-risk-assessment-software-dras.

To predict the potential for release to groundwater from landfilled wastes and subsequent routes of exposure to a receptor, the DRAS uses dilution attenuation factors derived from the EPA's Composite Model for leachate migration with transformation products. From a release to groundwater, the DRAS considers routes of exposure to a human receptor through ingestion of contaminated groundwater, inhalation from groundwater while showering and dermal contact from groundwater while bathing.

From a release to surface water by erosion of waste from an open landfill into storm water run-off, DRAS evaluates the exposure to a human receptor by fish ingestion and ingestion of drinking water. From a release of waste particles and volatile emissions to air from the surface of an open landfill, DRAS considers routes of exposure of inhalation of volatile constituents, inhalation of particles, and air deposition of particles on residential soil and subsequent ingestion of the contaminated soil by a child. The technical support document and the user's guide to DRAS are available at <https://www.epa.gov/hw/hazardous-waste-delisting-risk-assessment-software-dras>.

F. What did the EPA conclude?

Petitioner stated in its petition that the petitioned waste meets the criteria of K051 for which the EPA listed it. Petitioner also stated that no additional constituents or factors could cause the waste to be hazardous. Petitioner also stated that disposal in a landfill will not adversely impact human health and the environment. The EPA's review of this petition included consideration of the original listing criteria, and the additional factors required by the Hazardous and Solid Waste Amendments of 1984 (HSWA). See section 3001(f) of RCRA, 42 U.S.C. 6921(f), and CFR 260.22 (d)(1)–(4). In making the initial delisting determination, the EPA evaluated the petitioned waste against the listing criteria and factors cited in §§ 261.11(a)(2) and (a)(3). Based on this review, the EPA agrees with the Petitioner that the petitioned waste is nonhazardous with respect to the original listing criteria. (If the EPA had found, based on this review, that the waste remained hazardous based on the factors for which the waste was originally listed, the EPA would propose to deny the petition.) The EPA evaluated the waste with respect to other factors or criteria to assess whether there is a reasonable basis to believe that such additional factors

could cause the waste to be hazardous. The EPA considered whether the waste is acutely toxic, the concentration of the constituents in the waste, their tendency to migrate and to bioaccumulate, their persistence in the environment once released from the waste, plausible and specific types of management of the petitioned waste, the quantities of waste generated, and waste variability. The EPA believes that the petitioned waste does not meet the listing criteria and thus, should not be a listed waste. The EPA's proposed decision to delist the waste from Petitioner's facility is based on the information submitted in support of this rule, including descriptions of the wastes and analytical data from the Baytown, Texas facility, and that is contained in the Petition and attachments, all of which are included in the docket to this action.

IV. Conditions for Exclusion

A. How will the Petitioner manage the waste if it is delisted?

If the petitioned wastes are delisted as proposed, the Petitioner must dispose of them in a Subtitle D landfill which is permitted, licensed, or registered by a state to manage industrial waste.

B. What are the maximum allowable concentrations of hazardous constituents in the waste?

The EPA notes that in some instances the maximum allowable total constituent concentrations provided by the DRAS model exceed 100% of the waste—these DRAS results are an artifact of the risk calculations that do not have physical meaning. In instances where DRAS predicts a maximum constituent greater than 100 percent of the waste (that is, greater than 1,000,000 mg/kg or mg/L, respectively, for total and TCLP concentrations), the EPA is not proposing to require the Petitioner to perform sampling and analysis for that constituent and sampling type (total or TCLP).

C. How frequently must the Petitioner test the waste?

The testing approach for this waste stream will be conducted annually during the second calendar quarter. Petitioner must conduct annual sampling and analysis as described in the delisting sampling and analysis plan and ensure that the wastes do not exceed the delisting parameters. If any measured constituent concentration exceeds the delisting levels set forth in Table 2, ExxonMobil must collect an additional representative sample within 10 business days of being made aware of the exceedance and test it

expeditiously for the constituent(s) which exceeded delisting levels in the original annual sample. If compliance with the delisting parameters is demonstrated with analytical testing (TCLP analysis), the Petitioner may dispose of the API separator sludge as a non-hazardous waste. The annual amount of delisted sludge generated from the API Separator may not exceed 2,409 cubic yards. The annual sampling report shall include the volume of solids disposed of in the landfill, as well as annual testing event data. The petitioner should monitor and report increasing trends of constituents which will affect the overall compliance with the discharge permit.

D. What data must the Petitioner submit?

The Petitioner must submit the data obtained through verification testing to U.S. EPA Region 6, Office of Land, Chemicals and Redevelopment Division, 1201 Elm Street, Suite 500, M/C 6LCR-RP, Dallas, Texas 75270–2102, within 30 business days after receiving the final results from the laboratory. These results may be submitted electronically to Harry Shah, shah.harry@epa.gov. The Petitioner must make those records available for inspection. All data must be accompanied by a signed copy of the certification statement in 40 CFR 260.22(i)(12).

E. What happens if the Petitioner fails to meet the conditions of the exclusion?

If this Petitioner violates the terms and conditions established in the exclusion, the EPA may start procedures to withdraw the exclusion. Additionally, the terms of the exclusion provide that “[a]ny waste volume for which representative composite sampling does not reflect full compliance with the exclusion criteria must continue to be managed as hazardous.”

If the testing of the waste does not demonstrate compliance with the delisting concentrations described in Section IV.C above, or other data (including but not limited to leachate data or groundwater monitoring data from the final land disposal facility) relevant to the delisted waste indicates that any constituent is at a concentration in waste above specified delisting verification concentrations in Table 2, the Petitioner must notify the EPA within 10 business days, or such later date as the EPA may agree to in writing, after receiving the final verification testing results from the laboratory or of first possessing or being made aware of other relevant data. The EPA may require the Petitioner to

conduct additional verification sampling to better define the particular volume of wastes within the affected unit that does not fully satisfy delisting criteria. For any volume of wastes for which the corresponding representative sample(s) do not reflect full compliance with delisting exclusion levels, the exclusion by its terms does not apply, and the waste must be managed as hazardous.

The EPA has the authority under RCRA and the Administrative Procedures Act, 5 U.S.C. 551 (1978) *et seq.* to reopen a delisting decision if the EPA receive new information indicating that the conditions of this exclusion have been violated or, are otherwise not being met.

F. What must the Petitioner do if the process changes?

Any process changes or additions implemented at Petitioner's facility which would significantly impact the constituent concentrations of the waste must be reported to the EPA in accordance with Condition VI. of the exclusion language.

V. When would the EPA finalize the proposed delisting exclusion?

HSWA specifically requires the EPA to provide notice and an opportunity for public comment before granting or denying a final exclusion. Thus, the EPA will not make a final decision or grant an exclusion until it has addressed all timely public comments, including any at public hearings. Upon receipt and consideration of all comments, the EPA will publish its final determination as a final rule. Since this rule would reduce the existing requirements for persons generating hazardous wastes, the regulated community does not need a six-month period to come into compliance in accordance with § 3010 of RCRA, as amended by HSWA.

VI. How would this action affect states?

Because the EPA is proposing to issue this exclusion under the federal RCRA delisting regulations, only states subject to federal RCRA delisting provisions will be affected. This exclusion may not be effective in states which have received authorization from the EPA to make their own delisting decisions.

RCRA allows states to impose more stringent regulatory requirements than RCRA's under § 3009 of RCRA. These more stringent requirements may include a provision that prohibits a federally-issued exclusion from taking effect in the state. The EPA urge Petitioners to contact the state regulatory authority to establish the status of its wastes under the state law.

The EPA has also authorized some states to administer a delisting program in place of the federal program, that is, to make state delisting decisions. Therefore, this exclusion does not apply in those states. If the Petitioner manages the wastes in any state with delisting authorization, the Petitioner must obtain delisting authorization or other determination from the receiving state before it can manage the waste as nonhazardous in that state.

VII. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at <https://www2.epa.gov/laws-regulations/laws-and-executive-orders>.

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This proposed action is exempt from review by the Office of Management and Budget because it is a rule of particular applicability, not general applicability. The proposed action approves a delisting petition under RCRA for the petitioned waste at a particular facility.

B. Executive Order 13771: Reducing Regulations and Controlling Regulatory Costs

This proposed action is not an Executive Order 13771 regulatory action because actions such as approval of delisting petitions under RCRA are exempted under Executive Order 13771

C. Paperwork Reduction Act

This proposed action does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) because it only applies to a particular facility.

D. Regulatory Flexibility Act

Because this rule is of particular applicability relating to a particular facility, it is not subject to the regulatory flexibility provision of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

E. Unfunded Mandates Reform Act

This proposed action does not contain any unfunded mandate as described in the Unfunded Mandates Reform Act (2 U.S.C. 1531–1538) and does not significantly or uniquely affect small governments. The action imposes no new enforceable duty on any state, local, or tribal governments or the private sector.

F. Executive Order 13132: Federalism

This proposed action does not have federalism implications. It will not have

substantial direct effects 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.

G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This proposed action does not have tribal implications as specified in Executive Order 13175. This proposed action applies only to a particular facility on non-tribal land. Thus, Executive Order 13175 does not apply to this action.

H. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

This proposed action is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 13045 and because the EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. This proposed action's health and risk assessments using the EPA's Delisting Risk Assessment Software (DRAS), which considers health and safety risks to children, are described in section III.E above. The technical support document and the user's guide for DRAS are included in the docket.

I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution or Use

This proposed action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 13211.

J. National Technology Transfer and Advancement Act

This proposed action does not involve technical standards as described by the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note).

K. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898 (59 FR 7629, Feb. 16, 1994) directs federal agencies to identify and address “disproportionately high and adverse human health or environmental effects” of their actions on minority populations and low-income populations to the greatest extent practicable and permitted by law. The EPA defines environmental justice (EJ) as “the fair treatment and meaningful involvement

of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.” The EPA further defines the term fair treatment to mean that “no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies,” (<https://www.epa.gov/environmentaljustice/learn-about-environmental-justice>).

The EPA believes that this proposed action does not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations, and/or indigenous peoples. The EPA has determined that this proposed action will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because the petitioned wastes do not meet the

criteria that determines what constitutes a hazardous waste and there are no additional constituents or factors which could cause the waste to be hazardous. The EPA’s risk assessment, as described in section III.E above, did not identify risks from management of this material in an authorized, solid waste landfill (e.g., RCRA Subtitle D landfill, commercial/industrial solid waste landfill, etc.). Therefore, the EPA believes that any populations in proximity of the landfill(s) used by the Baytown facility should not be adversely affected by common waste management practices for this delisted waste.

L. Congressional Review Act

This proposed action is exempt from the Congressional Review Act (5 U.S.C. 801 *et seq.*) because it is a rule of particular applicability.

List of Subjects in 40 CFR Part 261

Environmental protection, Hazardous waste, Recycling, and Reporting and recordkeeping requirements.

Dated: January 9, 2023.

Ronald Crossland,

Director, Land, Chemicals and Redevelopment Division.

For the reasons set out in the preamble, the EPA proposes to amend 40 CFR part 261 as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

■ 1. The authority citation for part 261 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, 6922, 6924(y) and 6938.

■ 2. Amend Table 1 of Appendix IX to Part 261 by adding the entry for “ExxonMobil Baytown Refinery—Baytown, TX” in alphabetical order to read as follows:

Appendix IX to Part 261 Wastes Excluded Under §§ 260.20 and 260.22

* * * * *

Facility	Address	Waste description
ExxonMobil Baytown Refinery.	Baytown, Texas	API Separator Sludge (the EPA Hazardous Waste No. K051) maximum delisted amount of 2,409 cubic yards per calendar year after (date rule finalized) and disposed in a Subtitle D landfill. ExxonMobil must implement a verification program that meets the following Paragraphs: (1) Delisting Levels: All leachable constituent concentrations must not exceed the following levels. The petitioner must use the method specified in 40 CFR 261.24 to measure constituents in the waste leachate (mg/L). API Separator Solids Leachate: Acenaphthene—33.1; Aniline—6.15; Anthracene—80.7; Antimony—0.381; Arsenic—0.0402; Barium—100; Benz(a) anthracene—1.59; Benzene—0.24; Benzo(a)pyrene—599; Benzo(b)fluoranthene—5100; Beryllium 0.445; Cadmium—0.337; Chromium (III)—5.0; Chrysene—159; Cobalt—0.84; Copper—27.4; Cresol (total)—200; Dibenzofuran—1.84; 2,4-Dimethylphenol—35.3; Endosulfan—11.2; Endrin—0.02; Ethylbenzene—2.45; Fluoranthrene—7.67; Fluorene—15.3; Beta HCH—0.0197; Heptachlor—0.008; Heptachlor epoxide—0.008; Lead—2.22; Mercury—0.2; 2-Methylnaphthalene—2.26; Naphthalene—0.294; Nickel—42.1; Phenol—540; Pyrene—13.9; Selenium—1.0; Silver—5.0; TCDD—145; Thallium—0.0214; Toluene—47.1; Vanadium—12.9; Xylenes (total)—26.7; Zinc—614. (2) Waste Holding and Handling: (A) API Separator sludge must be tested annually to assure they have met the concentrations described in Paragraph (1). Solids that do not meet the concentrations in the original and retest representative sample must be disposed of as hazardous waste. (B) Levels of constituents measured in the samples of the solids that do not exceed the levels set forth in Paragraph (1) are non-hazardous. ExxonMobil can manage and dispose the non-hazardous API solids according to all applicable solid waste regulations. (C) ExxonMobil must maintain a record of the actual volume of the API solids to be disposed in the Subtitle D landfill according to the requirements in Paragraph (4). (3) Testing Requirements: (A) ExxonMobil must test a representative sample of the API separator sludge for all constituents listed in paragraph (1) at least once per calendar year. If any measured constituent concentration exceeds the delisting levels set forth in paragraph (1), ExxonMobil must collect an additional representative sample within 10 business days of being made aware of the exceedance and test it expeditiously for the constituent(s) which exceeded delisting levels in the original annual sample. (B) The annual testing report should include the total amount of delisted waste in cubic yards disposed during the calendar year. (4) Changes in Operating Conditions: If ExxonMobil significantly changes the process described in its petition or starts any processes that may or could affect the composition or type of waste generated as established under Paragraph (1) (by illustration, but not limitation, changes in equipment or operating conditions of the treatment process), they must notify the EPA in writing during the annual report.

Facility	Address	Waste description
		(5) Data Submittals: ExxonMobil must submit the information described below. If ExxonMobil fails to submit the required data within the specified time or maintain the required records on-site for the specified time, the EPA, at its discretion, will consider this sufficient basis to reopen the exclusion as described in Paragraph 5. ExxonMobil must: (A) Submit the data obtained through Paragraph 3 to the Chief, RCRA Permits & Solid Waste Section, Mail Code, (6LCR-RP) US EPA Region 6, 1201 Elm Street, Suite 500, Dallas, TX 75270 within the time specified. Data may be submitted via email to the technical contact for the delisting program. (B) Compile records of operating conditions and analytical data from Paragraph (3), summarized, and maintained on-site for a minimum of five years. (C) Furnish these records and data when the EPA or the State of Texas request them for inspection. (D) Send along with all data, a signed copy of the following certification statement, to attest to the truth and accuracy of the data submitted: "Under civil and criminal penalty of law for the making or submission of false or fraudulent statements or representations (pursuant to the applicable provisions of the Federal Code, which include, but may not be limited to, 18 U.S.C. 1001 and 42 U.S.C. 6928), I certify that the information contained in or accompanying this document is true, accurate and complete. As to the (those) identified section(s) of this document for which I cannot personally verify its (their) truth and accuracy, I certify as the company official having supervisory responsibility for the persons who, acting under my direct instructions, made the verification that this information is true, accurate and complete. If any of this information is determined by the EPA in its sole discretion to be false, inaccurate or incomplete, and upon conveyance of this fact to the company, I recognize and agree that this exclusion of waste will be void as if it never had effect or to the extent directed by the EPA and that the company will be liable for any actions taken in contravention of the company's RCRA and CERCLA obligations premised upon the company's reliance on the void exclusion." (6) Reopener: (A) If, any time after disposal of the delisted waste, ExxonMobil possesses or is otherwise made aware of any environmental data (including but not limited to leachate data or ground water monitoring data) or any other data relevant to the delisted waste indicating that any constituent identified for the delisting verification testing is at level higher than the delisting level allowed by the Division Director in granting the petition, then the facility must report the data, in writing, to the Division Director within 10 business days of first possessing or being made aware of that data. (B) If the annual or retest verification testing of the waste does not meet the delisting requirements in Paragraph 1, ExxonMobil must report the data, in writing, to the Division Director within 10 business days of first possessing or being made aware of that data. (C) If ExxonMobil fails to submit the information described in paragraphs (5), (6)(A) or (6)(B) or if any other information is received from any source, the Division Director will make a preliminary determination as to whether the reported information requires EPA action to protect human health or the environment. Further action may include suspending, or revoking the exclusion, or other appropriate response necessary to protect human health and the environment. (D) If the Division Director determines that the reported information does require EPA action, the Division Director will notify the facility, in writing, of the actions the Division Director believes are necessary to protect human health and the environment. The notice shall include a statement of the proposed action and a statement providing the facility with an opportunity to present information as to why the proposed EPA action is not necessary. The facility shall have 10 business days from the date of the Division Director's notice to present such information. (E) Following the receipt of information from the facility described in paragraph (6)(D) or (if no information is presented under paragraph (6)(D)) the initial receipt of information described in paragraphs (5), (6)(A) or (6)(B), the Division Director will issue a final written determination describing the EPA actions that are necessary to protect human health or the environment. Any required action described in the Division Director's determination shall become effective immediately, unless the Division Director provides otherwise. (7) Notification Requirements: ExxonMobil must do the following before transporting the delisted waste: Failure to provide this notification will result in a violation of the delisting petition and a possible revocation of the decision. (A) Provide a one-time written notification to any State Regulatory Agency to which, or through which they will transport the delisted waste described above for disposal, 60 days before beginning such activities. If ExxonMobil transports the excluded waste to or manages the waste in any state with delisting authorization, ExxonMobil must obtain delisting authorization from that state before it can manage the waste as nonhazardous in the state. (B) Update the one-time written notification if they ship the delisted waste to a different disposal facility. (C) Failure to provide the notification will result in a violation of the delisting variance and a possible revocation of the exclusion.
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[FR Doc. 2023-00685 Filed 1-20-23; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION**47 CFR Part 64****[WC Docket No. 22-21; FCC 22-102; FR 122866]****Data Breach Reporting Requirements****AGENCY:** Federal Communications Commission.**ACTION:** Proposed rule.

SUMMARY: In this document, the Federal Communications Commission (Commission) begins the process to update and strengthen its data breach rule to provide greater protections to the public. We propose to expand the Commission's definition of "breach" to include inadvertent disclosures of customer information and seek comment on adopting a harm-based trigger for breach notifications. We also propose to require carriers to notify the Commission, in addition to the Secret Service and FBI, as soon as practicable after discovery of a breach. We also propose to eliminate the mandatory waiting period before notifying customers and instead require carriers to notify customers of CPNI breaches without unreasonable delay after discovery of a breach unless requested by law enforcement. We also propose to make changes to our TRS data breach reporting rule consistent with those we propose to our CPNI breach reporting rule.

DATES: Comments are due on or before February 22, 2023, and reply comments are due on or before March 24, 2023. Written comments on the Paperwork Reduction Act proposed information collection requirements must be submitted by the public, Office of Management and Budget (OMB), and other interested parties on or before March 24, 2023.

ADDRESSES: You may submit comments, identified by WC Docket No. 22-21, by any of the following methods:

- *Federal Communications Commission's Website:* <https://apps.fcc.gov/ecfs/>. Follow the instructions for submitting comments.
- *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by email: FCC504@fcc.gov or phone: 202-418-0530 or TTY: 202-418-0432.

For detailed instructions for submitting comments and additional

information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document. In addition to filing comments with the Secretary, a copy of any comments on the Paperwork Reduction Act proposed information collection requirements contained herein should be submitted to the Federal Communications Commission via email to PRA@fcc.gov and to Nicole On'gele, FCC, via email to Nicole.Ongele@fcc.gov.

FOR FURTHER INFORMATION CONTACT:

Melissa Kinkel, Competition Policy Division, Wireline Competition Bureau, at (202) 418-7958, melissa.kinkel@fcc.gov. For additional information concerning the Paperwork Reduction Act information collection requirements contained in this document, send an email to PRA@fcc.gov or contact Nicole On'gele at (202) 418-2991.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking in WC Docket No. 22-21, adopted on December 29, 2022 and released on January 6, 2023. The full text of this document is available at <https://docs.fcc.gov/public/attachments/FCC-22-102A1.pdf>. To request materials in accessible formats for people with disabilities (e.g., Braille, large print, electronic files, audio format, etc.) or to request reasonable accommodations (e.g., accessible format documents, sign language interpreters, CART, etc.), send an email to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at (202) 418-0530.

Pursuant to Sections 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- *Electronic Filers:* Comments may be filed electronically using the internet by accessing the ECFS: <https://apps.fcc.gov/ecfs/>.

- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing.

- Filings can be sent by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050

Junction Drive, Annapolis Junction, MD 20701. U.S. Postal Service first-class, Express, and Priority mail must be addressed to 45 L Street NE, Washington, DC 20554.

- Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID-19. See FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Policy, Public Notice, DA 20-304 (March 19, 2020). <https://www.fcc.gov/document/fcc-closes-headquarters-open-window-and-changes-hand-delivery-policy>.

The proceeding this document initiates shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize

themselves with the Commission's *ex parte* rules.

This document contains proposed information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Public and agency comments are due March 24, 2023.

Comments should address: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and (e) way to further reduce the information collection burden on small business concerns with fewer than 25 employees. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4), we seek specific comment on how we might further reduce the information collection burden for small business concerns with fewer than 25 employees.

Synopsis

I. Notice of Proposed Rulemaking

1. To better protect telecommunications customers and ensure that our rules keep pace with today's challenges, we propose a number of updates to our rule addressing telecommunications carriers' breach notification duties. We seek to ensure that affected customers, the Commission, and other federal law enforcement agencies receive the information they need in a timely manner so they can mitigate and prevent harm due to the breach and take action to deter future breaches. To identify best practices and to minimize burdens, we look to other federal and state breach laws as potential models for our rules.

2. We propose to expand the Commission's definition of "breach" to include inadvertent disclosures of customer information and seek comment on adopting a harm-based trigger for breach notifications. We also propose to require carriers to notify the

Commission, in addition to the Secret Service and FBI, as soon as practicable after discovery of a breach. We also propose to eliminate the mandatory waiting period before notifying customers and instead require carriers to notify customers of CPNI breaches without unreasonable delay after discovery of a breach unless requested by law enforcement. We also seek comment on whether we should adopt minimum requirements for the content of customer breach notices. We also evaluate and seek comment on the impact of the Congressional disapproval of the 2016 *Privacy Order* on the Commission's legal authority to issue the rules proposed herein for telecommunications carriers. Finally, we propose to make changes to our TRS data breach reporting rule consistent with those we propose to our CPNI breach reporting rule.

A. Defining "Breach"

3. *Inadvertent Disclosures.* We propose to expand the Commission's definition of "breach" to include inadvertent access, use, or disclosures of customer information and seek comment on our proposal. Our current rule, adopted in response to the practice of pretexting, defines a "breach" as "when a person, without authorization or exceeding authorization, has intentionally gained access to, used, or disclosed CPNI." While the practice of pretexting necessarily involves an intent to gain access to customer information, the intervening years since the adoption of our existing rule have demonstrated that the inadvertent exposure of customer information can result in the loss and misuse of sensitive information by scammers and phishers, and trigger a need to inform the affected individuals so that they can take appropriate steps to protect themselves and their information. Further, whether or not a breach was intentional may not always be immediately apparent, which may lead to legal ambiguity and under-reporting. We also believe that it is important that the Commission and law enforcement be made aware of any accidental access, use, or disclosures so that we can (1) investigate and advise carriers on how best to avoid future breaches, and (2) stand ready to investigate if and when any of the affected information falls prey to malicious actors. We anticipate that requiring notification for accidental breaches will encourage telecommunications carriers to adopt stronger data security practices and will help us identify and confront systemic network vulnerabilities. Do commenters agree with the foregoing analysis? Are

there other policy factors the Commission should consider in determining whether to require disclosure for unintentional breaches? What are the benefits and burdens associated with this proposal? We note that state data breach laws overwhelmingly do not include an intent limitation, and we seek comment on how state and other federal data breach laws should influence the policy we adopt.

4. We seek comment on the impact of requiring reporting of accidental breaches on the number of reported breaches. Do commenters foresee a significant increase in the number of reported breaches? If so, how would our proposal affect reporting costs for telecommunications carriers and is that burden outweighed by the benefits to customers, who may need to take actions to protect their personal and financial information whether or not the breach was intentional? Would removing the intentionality limit potentially risk over-notification of data breaches to customers? What would the impacts of over-notification be? Would the potential benefits outweigh any potential harm? To help us assess the burden to both carriers and consumers from requiring reporting of accidental breaches, we invite commenters to provide estimates on the total number of breaches they have detected over the past few years, as well as the number of people affected by those breaches, and the severity of the compromised CPNI.

5. We propose to revise our definition to define a breach as any instance in which a person, without authorization or exceeding authorization, has gained access to, used, or disclosed CPNI. We seek comment on this proposal and other possible definitions. Should we retain the intent limitation in certain contexts? If so, what contexts and why? With only a few exceptions, the vast majority of state statutes include a provision exempting from the definition of breach a good-faith acquisition of covered data by an employee or agent of the company where such information is not used improperly or further disclosed. Should we include such an exemption in our definition of "breach" or is such a provision unnecessary or otherwise inadvisable? Is our proposed rule sufficient to capture all instances in which persons, either purposefully or inadvertently, gain access to, use, or disclose CPNI? If not, how should we revise our proposed rule to ensure that it does? We also seek comment on whether we should expand the definition of a breach to include situations where a telecommunications carrier or a third party discovers

conduct that could have reasonably led to exposure of customer CPNI, even if it has not yet determined if such exposure occurred.

6. Harm-Based Notification Trigger.

We seek comment on whether to forego requiring notification to customers or law enforcement of a breach in those instances where a telecommunications carrier can reasonably determine that no harm to customers is reasonably likely to occur as a result of the breach. Our current rule requires no showing of harm, instead requiring that notification be furnished in every instance where a breach of a carrier's customers' CPNI has occurred, where such breach is defined as any instance when "a person, without authorization or exceeding authorization, has intentionally gained access to, used, or disclosed CPNI."

7. We seek comment on the benefits and drawbacks of adopting a "harm-based" notification trigger. How would it impact consumers? Would it benefit consumers by avoiding confusion and "notice fatigue" with respect to breaches that are unlikely to cause harm? Recognizing that it is not only distressing, but time consuming and expensive, to deal with the fallout of a data breach, we seek comment on whether a harm-based notification trigger could save consumers the time, effort, and financial difficulty of changing their passwords, purchasing fraud alerts or credit monitoring, and freezing their credit in the wake of a breach that is not reasonably likely to result in harm. Alternatively, does a harm-based notification trigger risk that consumers would be unaware of important information regarding their CPNI? We note that a harm-based trigger has a basis in data breach notification frameworks employed by states, which generally do not require covered entities to notify customers of breaches when a determination is made that the breach is unlikely to cause harm. How should state and other data breach laws influence our analysis?

8. We also seek comment on the potential impacts of adopting a harm-based trigger on telecommunications carriers. Would a harm-based trigger allow carriers to better focus their resources on data security and ameliorating the harms caused by data breaches? Or to the contrary, would a harm-based trigger require carriers to unnecessarily expend resources determining whether particular breaches are reasonably likely to cause harm instead of more efficiently providing notice?

9. If we adopt a harm-based trigger, how should telecommunications carriers and the Commission determine

the likelihood of misuse or harm? Should we identify a standard or set of factors that telecommunications carriers must consider to evaluate whether no harm to customers is reasonably likely? If so, what factors should carriers consider in making their evaluation? We preliminarily believe that no single factor on its own (e.g., basic encryption) is sufficient to make a determination regarding harm to customers. Do commenters agree? Do carriers have sufficient expertise and experience to determine whether a breach is likely to result in harm? Should we establish a rebuttable presumption of consumer harm unless and until a carrier demonstrates that no harm to consumers is reasonably likely to occur as a result of a breach?

10. We seek comment on whether we should clarify the definition of "misuse" or "harm." For example, should we construe "harm" broadly to encompass not only financial, but also physical and emotional harm, including reputational damage, personal embarrassment, and loss of control over the exposure of intimate personal details? Should we require telecommunications carriers to consider whether other information about the customers that may be available combined with CPNI could result in harm when determining whether notification is required? Should any harm-based trigger apply even where the data breached is encrypted? What are the potential enforcement and compliance implications associated with this approach? Should breaches without such "harm" be reported to the Commission even if not reported to customers? Should we require the carrier to consult with federal law enforcement and/or the Commission prior to determining that there is no reasonable likelihood of harm or misuse? We seek comment on whether there are other triggers we should consider for which notice would be unnecessary, such as the number of affected consumers or the length of time exposure occurred. Are there other factors that we should consider before requiring breach notifications? Should we adopt a harm-based trigger only if we require notices of unintentional breaches, or should we evaluate the two issues independently? We also seek comment on the current notification practices in the industry. How do carriers currently make decisions regarding whether to notify customers and law enforcement of a breach?

11. We seek comment on whether any harm-based notification trigger should apply to both notifications to customers and notifications to law enforcement.

While there are legitimate reasons to consider eliminating notifications to customers in those instances where a breach is not reasonably likely to result in harm—including reducing confusion, stress, financial hardship, and notice fatigue—can the same be said of notifications to law enforcement? Are there compelling reasons for carriers to continue notifying law enforcement of data breaches even where such breaches are not reasonably likely to result in consumer harm? Do the benefits of notifying law enforcement of all breaches, regardless of whether the breach is likely to result in harm, outweigh the attendant costs to carriers of providing such notice?

12. We propose that if we adopt a harm-based trigger, where a carrier is unable to make a determination regarding harm or is uncertain whether harm is likely to occur, the obligation to notify would remain. We seek comment on this proposal.

13. We also recognize that telecommunications carriers possess proprietary information other than CPNI that customers have an interest in protecting from public exposure, such as Social Security Numbers and financial records. We seek comment on the Commission's authority to establish breach-reporting obligations for this type of information under Section 222, to the extent that this information is obtained by a telecommunications carrier in its activity as a common carrier. We also seek comment on the role of the Commission in protecting such information in light of the existing role of other agencies, including the FTC and Cybersecurity and Infrastructure Security Agency (CISA). If we were to require telecommunications carriers to report breaches of proprietary information other than CPNI under Section 222(a), how broadly or narrowly should we define that category of information? If we were to extend our data breach rule to cover such information, how could we minimize duplicative reporting obligations from the FTC and CISA?

B. Notifying the Commission and Other Federal Law Enforcement of Data Breaches

14. *Commission Notification.* We propose to require telecommunications carriers to notify the Commission of breaches, in addition to the Secret Service and FBI, as soon as practicable, and seek comment on our proposal. Our proposal is consistent with other federal sector-specific laws, which require prompt notification to the relevant subject-matter agency. For example, both HIPAA and the Health Breach

Notification Rule require notice to the department of Health and Human Services (HHS) and the FTC respectively. We seek comment on the benefits and costs of requiring notification to the Commission in addition to notifying the Secret Service and the FBI, as our existing rules require.

15. As discussed above, the Commission adopted its existing data breach rule to address concerns regarding pretexting practices. The Commission found that notifying law enforcement of CPNI breaches is consistent with the goal of protecting CPNI because it enables law enforcement to investigate the breach, “which could result in legal action against the perpetrators, thus ensuring that they do not continue to breach CPNI.” Moreover, the Commission anticipated that law enforcement investigations into how breaches occurred would enable law enforcement to advise the carrier and the Commission to take steps to prevent future breaches of that kind. However, as we have seen in the years since our data breach rule was initially adopted, not all breaches of customer data are the result of criminal pretexting, which was Commission’s sole focus in 2007. Large-scale security breaches can also be the result of lax or inadequate data security practices and employee training. Thus, we tentatively conclude that notification of breaches will provide Commission staff important information about data security vulnerabilities that Commission staff can help address and remediate. We anticipate that breach notification to the Commission will also shed light on carriers’ ongoing compliance with our rules. We seek comment on these tentative conclusions. How much of an incremental burden is associated with notifying the Commission of data breaches as compared to the existing data breach notification requirement for the Secret Service and FBI? Are there any other government entities to which we should require data breach reporting, such as the FTC? What would be the benefits and burdens of doing so?

16. *Method of Notification.* We propose that the Commission create and maintain a centralized portal for reporting breaches to the Commission and other federal law enforcement agencies, and we seek comment on our proposal. Our current breach notification rule requires that telecommunications carriers notify the FBI and Secret Service “through a central reporting facility” to which the Commission maintains a link on its website. We believe that the creation and operation by the Commission of a

centralized reporting facility for reporting of breaches to the Commission, Secret Service, and FBI will streamline the notification process and improve federal coordination. Do commenters agree? Are there alternative mechanisms for breach reporting to the Commission and other federal law enforcement that we should consider instead, such as leveraging the existing central reporting facility? Are there existing notification resources that we can leverage? For example, could we leverage the CISA Incident Reporting System to minimize burdens on carriers?

17. We seek comment on how we can minimize data breach reporting burdens for telecommunications carriers. The recently-passed Cyber Incident Reporting for Critical Infrastructure Act of 2022 (CIRCIA) requires covered entities to notify CISA of cyber security incidents and establishes an interagency Cyber Incident Reporting Council intended to streamline interagency cyber incident reporting. When implemented, CIRCIA will require covered entities to report cybersecurity incidents to CISA, except where covered entities “by law, regulation, or contract” are already required to report “substantially similar information to another Federal agency within a substantially similar timeframe,” in which case the other agency will report the incident to CISA. To the extent that a breach of CPNI is a result of a cyber incident, we seek comment on whether there are any modifications to our proposed rules that would minimize potential duplicate reporting of such breaches.

18. *Contents.* We seek comment on applying our existing requirements regarding the contents of the data breach notification to federal law enforcement agencies to breaches reported to the Commission. Generally, the central reporting facility requires carriers to report information relevant to the breach, including carrier contact information; a description of the breach incident; the method of compromise; the date range of the incident, approximate number of customers affected; an estimate of financial loss to the carriers and customers, if any; types of data breached; and the addresses of affected customers. We believe that the information currently submitted through the FBI/Secret Service reporting facility is largely sufficient, and that generally the same information should be reported under the rule we propose here. Do commenters agree? Are there any additional or alternative categories of information that should be included in these disclosures? For example,

should we require telecommunications carriers to report, at a minimum, the information required under CIRCIA with the aim of minimizing potentially duplicate reporting requirements? Should we curtail or streamline any of the existing content requirements? For example, should we eliminate the requirement that carriers report the addresses of affected individuals to law enforcement and the Commission, to minimize the personal information reported to the Commission and law enforcement?

19. *Timeframe.* We seek comment on the appropriate timeframe for notifying the Commission and other federal law enforcement of a breach. Our current rule requires telecommunications carriers to notify the Secret Service and the FBI of all breaches of CPNI no later than seven business days after reasonable determination of the breach. We propose to require carriers to notify the Commission of a reportable breach contemporaneously with notification to other law enforcement agencies as soon as practicable after discovery of a breach. We believe that requiring carriers to notify the Commission, Secret Service, and FBI at the same time will minimize burdens on carriers, eliminate confusion regarding obligations, and streamline the reporting process, allowing carriers to free up resources that can be used to address the breach and prevent further harm. We seek comment on our proposal. Is “as soon as practicable after discovery of a breach” an appropriate timeframe for notifying law enforcement after reasonable determination of a CPNI breach? Or, should we maintain the current “no later than seven business days” standard? Is there an alternative timeframe we should adopt for reporting CPNI breaches to the Commission and other federal law enforcement such as 24 hours or 72 hours as has been proposed in other contexts, or should we consider adopting a graduated timeframe? We also seek comment on whether we should clarify when a carrier should be treated as having “reasonably determined” that a breach has occurred. Should a carrier be held to have “reasonably determined” a breach has occurred when it has information indicating that it is more likely than not that there was a breach? Should we publish guidance on what constitutes a reasonable determination? Should we adopt a more definite standard?

20. *Threshold Trigger.* We seek comment on whether it is appropriate to set a threshold for the number of customers affected to require a breach report to the Commission, Secret

Service, and/or FBI. We observe that breaches affecting smaller numbers of customers may not necessitate the same law enforcement attention as larger breaches because they may be less likely to reflect coordinated attacks on CPNI. Under our current rule, telecommunications carriers must notify federal law enforcement of *all* reportable breaches, regardless of the number of customers affected. Setting a threshold for the number of customers affected for breach reporting to the Secret Service and FBI could reduce the administrative burdens on carriers and law enforcement agencies from excessive reporting, and is consistent with many state statutes requiring notice to state law enforcement authorities, which require law enforcement notification of large breaches.

21. At the same time, establishing a threshold may limit our and our federal partners' abilities to remediate, investigate, and deter smaller breaches. Further, as the Commission has previously found, notification of all breaches could allow the Commission and federal law enforcement to be "better positioned than individual carriers to develop expertise about the methods and motives associated with CPNI breaches." Is this still the case, given the development of data breach law and practices since 2007? Should we adopt a threshold for reporting to federal law enforcement? If so, should the threshold be the same for the Commission as for federal law enforcement? If not, how should the threshold differ? What would be an appropriate threshold for reporting? Most states that adopt a threshold for reporting to law enforcement or government agencies require reporting at 250, 500, or 1000 individuals affected. What reporting threshold would meet the needs of law enforcement and provide adequate safeguards? What are the benefits and drawbacks of setting a threshold, particularly for small carriers? If we adopt a threshold trigger, should we require carriers to maintain a record of smaller breaches that fall below the threshold and report such small breaches to the Commission in a report at the end of the year? What are the benefits and drawbacks to such an approach? Rather than a numerical threshold, should we instead consider requiring carriers to report only intentional breaches to law enforcement, but to report all breaches, whether intentional or inadvertent, to the Commission?

C. Customer Notification

22. *Notifying Customers of Data Breaches without Unreasonable Delay.*

We propose to require telecommunications carriers to notify customers of CPNI breaches without unreasonable delay after discovery of a breach and notification to law enforcement, unless law enforcement requests a delay. We seek comment on our proposal. Our existing data breach rule prohibits telecommunications carriers from notifying customers or disclosing the breach to the public until at least seven full business days after notification to the Secret Service and FBI. In cases where a carrier believes that there is an extraordinarily urgent need to notify affected customers in order to avoid immediate and irreparable harm, our rules permit carriers to notify affected customers after consultation with relevant investigating agencies. In adopting the existing rule, the Commission concluded that once customers have been notified, a breach may become public knowledge, "thereby impeding law enforcement's ability to investigate the breach, identify the perpetrators, and determine how the breach occurred." In short, the Commission found, "immediate customer notification may compromise all the benefits of requiring carriers to notify law enforcement of CPNI breaches," and therefore a short delay was warranted.

23. We tentatively conclude that this existing approach is out-of-step with current approaches regarding the urgency of notifying victims about breaches of their personal information. We tentatively conclude that our proposal better serves the public interest than our current rule because it increases the speed at which customers may receive the important information contained in a notice, except in those specific circumstances when law enforcement officials specifically request otherwise. We seek comment on our tentative conclusion. What are the benefits and drawbacks to such an approach? Is there any reason to maintain our current absolute bar to customer notification for a set period? Does our proposal to eliminate the seven business-day waiting period before notifying customers appropriately balance legitimate law enforcement needs with the customers' need to take action to timely protect their information after a breach? We seek comment on whether a "without unreasonable delay" notification requirement would allow carriers enough time to determine the scope and impact of a breach. Would prompt

customer notification compromise a carrier's ability to discover the source of the breach, mitigate the loss of data, and ensure further data is not compromised?

24. Our proposed requirement is consistent with many existing data breach notification laws that require expedited notice but refrain from requiring a specific timeframe. For example, the GLBA requires customer notification "as soon as possible" after a determination that customer information has been misused. California law requires notification "be made in the most expedient time possible and without unreasonable delay, consistent with the legitimate needs of law enforcement." Similarly, many state data breach statutes impose an "expeditiously as practicable" or "without unreasonable delay" standard instead of a set time limit for reporting. In addition, FTC guidance on addressing data breaches explains that "if you quickly notify people that their personal information has been compromised, they can take steps to reduce the chance that their information will be misused." How should state and other federal law influence the approach we adopt?

25. We seek comment on whether requiring notice to customers "without unreasonable delay" after discovery of a breach provides sufficient guidance as to the required timeframe to notify customers. Should we adopt a different approach, such as a fixed number of days for notification, and if so what should we adopt? If we were to adopt a "without unreasonable delay" standard, we seek comment on whether we should provide guidance on a specific time period that would be considered "reasonable" for notification. For example, HIPAA requires notification to individuals "without unreasonable delay and in no case later than 60 calendar days after discovery of a breach." The Health Breach Notification Rule also requires notification to individuals "without unreasonable delay and in no case later than 60 days after the discovery of a breach of security." Most states that impose an outside limit on when consumers must be notified of a breach require notification to affected consumers no later than 30, 45, or 60 days after discovery of a breach. What are the benefits and drawbacks to setting a definite time limit on notification while requiring notification without unreasonable delay?

26. We also seek comment on whether the same notification deadline should be applied to all carriers. Are there unique concerns or compliance barriers for small carriers that make prompt

response unfeasible, such as resource availability or reliance on third-party cybersecurity services for breach detection? Should we adopt different notification requirements for small carriers? If so, what threshold should we establish for small carriers? Should we consider establishing any other exceptions to this proposed requirement? We also seek comment on whether we should take into consideration the scope of the breach, e.g., how many customers are affected, the type of information breach, in determining the appropriate timeframe for customer breach reporting.

27. We seek comment on how best to coordinate the timing of customer notification and federal law enforcement notification. Our current rule, providing for consecutive rather than simultaneous notification of federal law enforcement and customers, was adopted at the request of federal law enforcement. Is such an approach still necessary? Are there circumstances where it would be acceptable for carriers to notify customers and law enforcement simultaneously in certain instances? Given that nearly all, if not all, state data breach statutes subject the timing of customer notification to legitimate law enforcement needs, we seek comment on whether it is necessary to provide any further guidance to help coordinate the timing of notice to customers with notice to the Commission and other federal law enforcement.

28. In addition, consistent with our current rules implementing Section 222, our proposed rules would allow a federal agency to direct a carrier to delay customer notification for an initial period of up to 30 days if such notification would interfere with a criminal investigation or national security. In circumstances when a carrier reasonably decides to consult with law enforcement, a short delay pending such consultation would likely be reasonable for purposes of a “without unreasonable delay” standard for customer notification. We seek comment on this proposal. We observe that HIPAA, the GLBA, and the Health Breach Notification Rules allow for a delay of customer notification if law enforcement determines notification to customers would “impede a criminal investigation or cause damage to national security,” but only if law enforcement officials request such a delay. Both HIPAA and the Health Breach Notification Rule allow notification delays of up to 30 days if requested by law enforcement. Similarly, GLBA allows that “customer notice may be delayed if an appropriate

law enforcement agency determines that notification will interfere with a criminal investigation and provides the institution with a written request for a delay.” Likewise, most, if not all, states permit delays in notifying affected consumers for legitimate law enforcement needs. We tentatively conclude that our proposal strikes an appropriate balance between the needs of law enforcement to have time to investigate criminal activity and the needs of customers to be notified of data breaches. Do commenters agree? We also observe that these other regimes appear to allow non-federal law enforcement to request a delay, whereas the Commission’s rule currently allows only federal agencies to so request. Should our rule also allow carriers to delay notification upon request of non-federal law enforcement?

29. *Contents of Customer Breach Notification.* We seek comment on whether we should require customer breach notifications to include specific minimum categories of information. Our current rules specify when and to whom breach notifications must be made, but do not address the content of such notifications. In adopting the current breach notification rules, the Commission declined to specify the precise content of the notice that must be provided to customers in the event of a security breach of CPNI, “leav[ing] carriers the discretion to tailor the language and method of notification to the circumstances.” Nearly 15 years later, we now seek comment on whether it is appropriate to require a minimum amount of information to ensure that such data breach notifications contain actionable information that is useful to the consumer. We seek comment on the benefits to customers and carriers of requiring carriers to include minimum categories of information in customer data breach notices. Will having minimum consistent fields of information assist consumers in understanding the circumstances and nature of the breach and streamline notice practices for carriers? What are the drawbacks to doing so? Are there any legal barriers to adopting a rule that prescribes the minimum categories of information in these breach notices?

30. To so identify possible categories of information to require, we look to numerous state data breach statutes as well as existing federal guidance regarding data breach notices. All 50 states, the District of Columbia, Guam, Puerto Rico, and the Virgin Islands have laws requiring private or governmental entities to notify individuals of breaches involving their personal information. Of these, many impose minimum content

requirements on the notifications that must be transmitted to affected individuals in the wake of a data breach, including: the name and contact information for the entity reporting the breach; the date, estimated date, or estimated date range of the breach; a description of the breach incident; a description of the personally identifiable information that was used, disclosed, or accessed, or reasonably believed to have been used, disclosed, or accessed; any actions the entity is taking to remedy the situation and/or protect affected individuals; a brief list of steps that affected consumers can take to protect themselves and their information, such as contacting credit bureaus to ask that fraud alerts or credit freezes be placed on their credit reports; and contact information for the FTC and any federal agency that assists consumers with matters of identity theft. Similarly, both the HIPAA Breach Notification Rule and guidance issued by the Federal Deposit Insurance Corporation (FDIC) in response to the GLBA impose minimum content requirements on data breach notifications. In its Data Breach Response Guide, the FTC advises companies on specific information that should be included in their breach notices to individuals, including describing what the company knows about the breach (how it happened, what information was taken, how the thieves have used the information (if known), what actions the company has taken to remedy the situation, what actions the company is taking to protect individuals, how to reach the relevant contact in the organization); the steps individuals can take, given the type of information exposed, and provide relevant contact information; current information about how to recover from identity theft; information about the law enforcement agency working on the case, if the law enforcement agency agrees that would help; encouraging people who discover that their information has been misused to report it to the FTC; and describing how the company will contact consumers in the future to help victims avoid phishing scams.

31. We seek comment on adapting these models to telecommunications carriers and requiring carriers to include, at a minimum, the following information in security breach notices to customers: (1) the date of the breach; (2) a description of the customer information that was used, disclosed, or accessed; (3) information on how customers, including customers with disabilities, can contact the carrier to

inquire about the breach; (4) information about how to contact the Commission, FTC, and any state regulatory agencies relevant to the customer and the service; (5) if the breach creates a risk of identity theft, information about national credit reporting agencies and the steps customers can take to guard against identity theft, including any credit monitoring, credit reporting, or credit freezes the carrier is offering to affected customers; and (6) what other steps customers should take to mitigate their risk based on the specific categories of information exposed in the breach. Are the identified categories the correct information to be included in data breach notices? Should we consider requiring any additional or alternative categories of information that carriers must include in customer breach notices? For example, would it be helpful to include a statement of whether the notification was delayed due to reporting requirements to law enforcement or a law enforcement investigation, and if so, the length of the delay to help explain to customers the time lapse between discovery of the breach and customer notification? Should we require notifications to include a list of the law enforcement and government entities that have been notified of the breach? Should we require carriers to include a brief description of how the carrier will contact consumers in the future regarding the breach to help consumers avoid phishing scams related to breaches? What are best practices for providing consumers with actionable information in a breach notification? We seek comment on what minimum required information appropriately balances empowering consumers to take the necessary steps to protect themselves and their information in the wake of a data breach and appropriately limiting burdens on telecommunications carriers. We also seek comment on whether adopting or adapting a set of existing notification contents requirements will help to create a measure of consistency across breach notifications and will benefit both consumers and carriers, particularly smaller carriers, by streamlining the manner and content of their response in the event of a data breach.

32. Method of Customer Breach Notification. We observe that many state regulations specify the form that notifications to customers may take, whether by physical mail, email, or telephone. We seek comment on whether we should adopt a similar

requirement and, if so, on what form notifications to consumers should take. Is there a method or methods of notification that would make the most sense or be most beneficial to consumers? What are the benefits and burdens of imposing such a requirement?

D. TRS Breach Reporting

33. In 2013, the Commission adopted CPNI rules applicable to all forms of Telecommunications Relay Services (TRS), as well as to point-to-point video calls handled over the video relay services (VRS) network. The Commission found that “for TRS to be functionally equivalent to voice telephone services, consumers with disabilities who use TRS are entitled to have the same assurances of privacy as do consumers without disabilities for voice telephone services.” The CPNI rules for TRS include a breach notification rule that is equivalent to § 64.2011 in terms of the substantive protection provided to TRS users. The texts of the two provisions are virtually identical, except for the substitution of the term “TRS provider” for “telecommunications carrier” in § 64.5111. The only substantive difference is that under the TRS rule, after a TRS provider notifies law enforcement of a breach, it “shall file a copy of the notification with the Disability Rights Office of the Consumer and Governmental Affairs Bureau at the same time as when the TRS provider notifies the customers.”

34. To maintain functional equivalency for TRS users, we propose to amend § 64.5111 so that it continues to provide equivalent privacy protection for TRS users. The amendments we propose for § 64.5111 are thus essentially the same as those proposed for users of telecommunications and interconnected VoIP services. That is, we propose: (1) to expand the Commission’s definition of “breach” to include inadvertent disclosures of customer information; (2) to require TRS providers to notify the Commission, in addition to the Secret Service and FBI, as soon as practicable after discovery of a breach; and (3) to eliminate the mandatory waiting period to notify customers, instead requiring TRS providers to notify customers of CPNI breaches without unreasonable delay after discovery of a breach unless law enforcement requests a delay. Further, we seek comment on the following additional issues, raised above regarding § 64.2011, as they relate to TRS providers: (1) whether to adopt a harm-based trigger for breach notifications; (2) whether we should adopt minimum

requirements for the content of customer breach notices; and (3) whether our rules should address breaches of sensitive personal information.

35. We seek comment on each of these proposals and their costs and benefits. Should updated data breach requirements for TRS providers be identical to those we adopt for providers of telecommunications and interconnected VoIP services, or are there circumstances unique to TRS providers that warrant differences in their obligations regarding data breaches? Are any additional notification requirements necessary to ensure TRS users receive functionally equivalent privacy protection? If we adopt the proposed requirement that service providers notify the Commission of breaches via a centralized portal, is there any need to retain the current requirement that TRS providers submit a copy of any breach notification to the Disability Rights Office of the Consumer and Governmental Affairs Bureau? Finally, would TRS providers incur costs or other compliance burdens under the proposed amendments that are disproportionately greater than those incurred by providers of telecommunications and interconnected VoIP services, and if so, would the extent of such costs or burdens justify the application of different breach notification requirements to TRS?

36. Legal Authority. Section 225 of the Act directs the Commission to ensure that TRS are available to enable communication in a manner that is functionally equivalent to voice telephone services. In 2013, the Commission found that applying the privacy protections of the Commission’s CPNI regulations to TRS users advances the functional equivalency of TRS. The Commission concluded further that the specific mandate of Section 225 to establish “functional requirements, guidelines, and operations procedures for TRS” authorizes the Commission to make the privacy protections of the Commission’s CPNI regulations applicable to TRS users. In addition, the Commission found that extending the CPNI regulations to TRS users is ancillary to its responsibilities under Section 222 of the Act to telecommunications service subscribers that place calls to or receive calls from TRS users, because TRS call records include call detail information concerning all calling and called parties. Finally, the Commission determined that applying CPNI requirements to point-to-point video services provided by VRS providers is ancillary to its

responsibilities under Sections 222 and 225.

37. We tentatively conclude that, for the same reasons cited in the *2013 VRS Reform Order*, these sources of authority for establishing the current CPNI rules for TRS authorize the Commission to amend those rules to ensure that TRS users receive privacy protections equivalent to those proposed for users of telecommunications and VoIP services. We seek comment on this tentative conclusion.

E. Legal Authority

38. *Section 222.* We believe that Section 222 provides authority to adopt the breach notification rules for which we seek comment in this *Notice of Proposed Rulemaking*. We also tentatively conclude that we have authority to apply the rules proposed in this *Notice of Proposed Rulemaking* to interconnected VoIP providers. We seek comment on these tentative conclusions.

39. Section 222 of the Act governs telecommunications carriers in their use, disclosure, and protection of proprietary information that they obtain in the course of providing telecommunications services. Section 222(a) imposes a duty on carriers to “protect the confidentiality of proprietary information of, and relating to” customers, fellow carriers, and equipment manufacturers. Section 222(c) imposes more specific requirements on carriers as to the protection and confidentiality of CPNI. We tentatively conclude that both subsections provide us authority to adopt rules requiring telecommunications carriers and interconnected VoIP providers to address breaches of CPNI.

40. The Commission has long required carriers to report data breaches as part of their duty to protect the confidentiality of customers’ information. We believe that the proposed revisions to the Commission’s data breach reporting rule reinforce carriers’ duty to protect the confidentiality of their customers’ information. Data breach reporting requirements also reinforce our other rules addressing the protection of CPNI. For example, data breach notifications can meaningfully inform customer decisions regarding whether to give, withhold, or retract their approval to use or disclose their information. Similarly, we believe that requiring carriers to notify the Commission in the event of a data breach will better enable the Commission to identify and confront systemic network vulnerabilities and help investigate and advise carriers on

how best to avoid future breaches, also helping carriers to fulfill their duty under Section 222(a) to protect the confidentiality of their customers’ information. We seek comment on this analysis.

41. *Interconnected VoIP.* We believe that we have authority under Section 222 and our ancillary jurisdiction to apply the rules we propose today to interconnected VoIP providers. In 2007, the Commission exercised ancillary jurisdiction to extend its Part 64 CPNI rules to interconnected VoIP services. Since then, interconnected VoIP providers have operated under these rules. Interconnected VoIP services remain within the Commission’s subject matter jurisdiction and we believe that the application of customer privacy requirements to these services is “reasonably ancillary to the effective performance” of our statutory responsibility under Section 222. As the Commission explained in 2007, “American consumers [can reasonably] expect that their telephone calls are private irrespective of whether the call is made using the service of a wireline carrier, a wireless carrier, or an interconnected VoIP provider.” Now, as then, extending Section 222’s protections to interconnected VoIP service customers is also “necessary to protect the privacy of wireline or wireless customers that place calls to or receive calls from interconnected VoIP providers.” In addition, in 2008, Congress ratified the Commission’s decision to apply Section 222’s requirements to interconnected VoIP services by adding language to Section 222 that expressly covers “IP-enabled voice service,” defined expressly to incorporate the Commission’s definition of “interconnected VoIP service.” The 2008 revisions to Section 222 would not make sense if the privacy-related duties of subsections (a) and (c) did not apply to interconnected VoIP providers. We seek comment on this analysis.

42. We seek comment on whether there are other bases of authority on which we can rely to adopt the rules we propose and seek comment on today.

F. Impact of the Congressional Disapproval of the 2016 Privacy Order

43. As noted above, in 2016, the Commission acted to revise its breach notification rule as part of a larger proceeding addressing privacy requirements for broadband internet access service providers (ISPs). The rules the Commission adopted in the *2016 Privacy Order* applied to telecommunications carriers and interconnected VoIP providers in addition to ISPs, which had been

classified as providers of telecommunications services in 2015. In 2017, however, Congress nullified those 2016 revisions to the Commission’s CPNI rules under the Congressional Review Act.

44. As a threshold matter, we seek comment on the effect of the Congressional disapproval of the *2016 Privacy Order* under the Congressional Review Act. While we seek comment on a range of proposals in this item, we clarify that, in light of the Congressional resolution of disapproval, we are not seeking comment on “reissu[ing] . . . in substantially the same form,” or on issuing “a new rule that is substantially the same as,” the rule disapproved by Congress. More generally, though, we seek comment here on the effect and scope of the Congressional disapproval of the *2016 Privacy Order* for purposes of adopting rules that apply to telecommunications carriers.

G. Digital Equity Considerations

45. The Commission, as part of its continuing effort to advance digital equity for all, including people of color and others who have been historically underserved, marginalized, and adversely affected by persistent poverty and inequality, invites comment on any equity-related considerations and benefits (if any) that may be associated with the proposals and issues discussed herein. Specifically, we seek comment on how our proposals may promote or inhibit advances in diversity, equity, inclusion, and accessibility.

II. Procedural Matters

46. *Initial Regulatory Flexibility Analysis.* As required by the Regulatory Flexibility Act, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities of the policies and rules addressed in this document. The IRFA is set forth in Appendix B. Written public comments are requested on the IRFA. Comments must be filed by the deadlines for comments on the Notice of Proposed Rulemaking indicated on the first page of this document and must have a separate and distinct heading designating them as responses to the IRFA. The Commission’s Consumer and Governmental Affairs Bureau, Reference Information Center, will send a copy of this Notice of Proposed Rulemaking, including the IRFA, to the Chief Counsel for Advocacy of the SBA.

47. *People with Disabilities.* To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to fcc504@fcc.gov

or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice).

III. Initial Regulatory Flexibility Analysis

1. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the policies and rules proposed in this Notice of Proposed Rulemaking. The Commission requests written public comments on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments provided on the first page of the Notice of Proposed Rulemaking. The Commission will send a copy of the Notice of Proposed Rulemaking, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). In addition, the Notice of Proposed Rulemaking and IRFA (or summaries thereof) will be published in the **Federal Register**.

A. Need for, and Objectives of, the Proposed Rules

2. The Commission first adopted a rule in 2007 requiring telecommunications carriers and interconnected Voice over internet Protocol (VoIP) providers to notify customers and federal law enforcement of breaches of customer proprietary network information (CPNI) in the carriers' possession. In the almost decade and a half since that time, data breaches nationwide have increased in both frequency and severity in all industries. In the telecommunications industry, the public has suffered an increasing number of security breaches of customer information in recent years. Federal and state data breach laws covering other areas have evolved since 2007. Those developments combined with our specific experience suggest opportunities for improvement in our own breach notification rule. Today, we begin the process to update and strengthen our data breach rule to provide greater protections to the public.

3. The Commission adopted the data breach rule, like the rest of the privacy safeguards adopted in the *2007 CPNI Order*, to address the problem of "pretexting," the practice of pretending to be a particular customer or other authorized person in order to obtain access to that customer's call detail or other private communications records. In the almost 15 years since, it has become clear that breaches of customer information in many contexts extend far

beyond pretexting in general or the specific type of pretexting addressed at that time and are increasing in scale and evolving in methodology. The increasing severity and diversifying methods of security breaches involving customer information can have lasting detrimental impacts on customers whose information has been breached.

4. To better protect telecommunications customers and ensure that our rules keep pace with today's challenges, we propose a number of updates to our rule addressing telecommunications carriers' breach notification duties. We seek to ensure that affected customers, the Commission, and other federal law enforcement agencies receive the information they need in a timely manner so they can mitigate and prevent harm due to the breach and take action to deter future breaches. To identify best practices and to minimize burdens, we look to other federal and state breach laws as potential models for our rules.

5. In this document, we propose to expand the Commission's definition of "breach" to include inadvertent disclosures of customer information and seek comment on adopting a harm-based trigger for breach notifications. We also propose to require carriers to notify the Commission, in addition to the Secret Service and FBI, as soon as practicable after discovery of a breach. We also propose to eliminate the mandatory waiting period before notifying customers and instead require carriers to notify customers of CPNI breaches without unreasonable delay after discovery of a breach unless law enforcement requests a delay. We also seek comment on whether we should adopt minimum requirements for the content of customer breach notices, and we seek comment on whether our rules should address breaches of other types of sensitive personal information beyond CPNI. Finally, we propose to make changes to our TRS data breach reporting rule consistent with those we propose to our CPNI breach reporting rule.

B. Legal Basis

6. The legal basis for any action that may be taken pursuant to this Notice of Proposed Rulemaking is contained in Sections 1, 4(i), 4(j), 201, 202, 222, 225, 303(r), and 332 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154, 201, 202, 222, 225, 303(r), 332.

C. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

7. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules and by the rule revisions on which the Notice of Proposed Rulemaking seeks comment, if adopted. The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small-business concern" under the Small Business Act. A "small-business concern" is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.

8. *Small Businesses, Small Organizations, Small Governmental Jurisdictions.* Our actions, over time, may affect small entities that are not easily categorized at present. We therefore describe here, at the outset, three broad groups of small entities that could be directly affected herein. First, while there are industry specific size standards for small businesses that are used in the regulatory flexibility analysis, according to data from the Small Business Administration's (SBA) Office of Advocacy, in general a small business is an independent business having fewer than 500 employees. These types of small businesses represent 99.9 percent of all businesses in the United States, which translates to 32.5 million businesses.

9. Next, the type of small entity described as a "small organization" is generally "any not-for-profit enterprise which is independently owned and operated and is not dominant in its field." The Internal Revenue Service (IRS) uses a revenue benchmark of \$50,000 or less to delineate its annual electronic filing requirements for small exempt organizations. Nationwide, for tax year 2018, there were approximately 571,709 small exempt organizations in the U.S. reporting revenues of \$50,000 or less according to the registration and tax data for exempt organizations available from the IRS.

10. Finally, the small entity described as a "small governmental jurisdiction" is defined generally as "governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand." U.S. Census Bureau data from the 2017 Census of

Governments indicate that there were 90,075 local governmental jurisdictions consisting of general purpose governments and special purpose governments in the United States. Of this number there were 36,931 general purpose governments (county, municipal and town or township) with populations of less than 50,000 and 12,040 special purpose governments— independent school districts with enrollment populations of less than 50,000. Accordingly, based on the 2017 U.S. Census of Governments data, we estimate that at least 48,971 entities fall into the category of “small governmental jurisdictions.”

1. Wireline Carriers

11. *Wired Telecommunications Carriers.* The U.S. Census Bureau defines this industry as establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired communications networks. Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services, wired (cable) audio and video programming distribution, and wired broadband internet services. By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry. Wired Telecommunications Carriers are also referred to as wireline carriers or fixed local service providers.

12. The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small. U.S. Census Bureau data for 2017 show that there were 3,054 firms that operated in this industry for the entire year. Of this number, 2,964 firms operated with fewer than 250 employees. Additionally, based on Commission data in the 2021 Universal Service Monitoring Report, as of December 31, 2020, there were 5,183 providers that reported they were engaged in the provision of fixed local services. Of these providers, the Commission estimates that 4,737 providers have 1,500 or fewer employees. Consequently, using the SBA’s small business size standard, most of these providers can be considered small entities.

13. *Local Exchange Carriers (LECs).* Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to local exchange services. Providers of these services include both incumbent and competitive local exchange service providers. Wired Telecommunications Carriers is the closest industry with an SBA small business size standard. Wired Telecommunications Carriers are also referred to as wireline carriers or fixed local service providers. The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small. U.S. Census Bureau data for 2017 show that there were 3,054 firms that operated in this industry for the entire year. Of this number, 2,964 firms operated with fewer than 250 employees. Additionally, based on Commission data in the 2021 Universal Service Monitoring Report, as of December 31, 2020, there were 5,183 providers that reported they were fixed local exchange service providers. Of these providers, the Commission estimates that 4,737 providers have 1,500 or fewer employees. Consequently, using the SBA’s small business size standard, most of these providers can be considered small entities.

14. *Incumbent LECs.* Neither the Commission nor the SBA has developed a small business size standard specifically for incumbent local exchange services. Wired Telecommunications Carriers is the closest industry with an SBA small business size standard. The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small. U.S. Census Bureau data for 2017 show that there were 3,054 firms in this industry that operated for the entire year. Of this number, 2,964 firms operated with fewer than 250 employees. Additionally, based on Commission data in the 2021 Universal Service Monitoring Report, as of December 31, 2020, there were 1,227 providers that reported they were incumbent local exchange service providers. Of these providers, the Commission estimates that 929 providers have 1,500 or fewer employees. Consequently, using the SBA’s small business size standard, the Commission estimates that the majority of incumbent local exchange carriers can be considered small entities.

15. *Competitive Local Exchange Carriers (Competitive LECs).* Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to local exchange

services. Providers of these services include several types of competitive local exchange service providers. Wired Telecommunications Carriers is the closest industry with a SBA small business size standard. The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small. U.S. Census Bureau data for 2017 show that there were 3,054 firms that operated in this industry for the entire year. Of this number, 2,964 firms operated with fewer than 250 employees. Additionally, based on Commission data in the 2021 Universal Service Monitoring Report, as of December 31, 2020, there were 3,956 providers that reported they were competitive local exchange service providers. Of these providers, the Commission estimates that 3,808 providers have 1,500 or fewer employees. Consequently, using the SBA’s small business size standard, most of these providers can be considered small entities.

16. *Interexchange Carriers (IXCs).* Neither the Commission nor the SBA has developed a small business size standard specifically for Interexchange Carriers. Wired Telecommunications Carriers is the closest industry with a SBA small business size standard. The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small. U.S. Census Bureau data for 2017 show that there were 3,054 firms that operated in this industry for the entire year. Of this number, 2,964 firms operated with fewer than 250 employees. Additionally, based on Commission data in the 2021 Universal Service Monitoring Report, as of December 31, 2020, there were 151 providers that reported they were engaged in the provision of interexchange services. Of these providers, the Commission estimates that 131 providers have 1,500 or fewer employees. Consequently, using the SBA’s small business size standard, the Commission estimates that the majority of providers in this industry can be considered small entities.

17. *Cable System Operators (Telecom Act Standard).* The Communications Act of 1934, as amended (the Act), also contains a size standard for small cable system operators, which is “a cable operator that, directly or through an affiliate, serves in the aggregate fewer than one percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed \$250,000,000.” For purposes of the Telecom Act Standard, the Commission

determined that a cable system operator that serves fewer than 677,000 subscribers, either directly or through affiliates, will meet the definition of a small cable operator based on the cable subscriber count established in a 2001 Public Notice. Based on industry data, only six cable system operators have more than 677,000 subscribers.

Accordingly, the Commission estimates that the majority of cable system operators are small under this size standard. We note however, that the Commission neither requests nor collects information on whether cable system operators are affiliated with entities whose gross annual revenues exceed \$250 million. Therefore, we are unable at this time to estimate with greater precision the number of cable system operators that would qualify as small cable operators under the definition in the Communications Act.

18. *Other Toll Carriers.* Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to other toll carriers. This category includes toll carriers that do not fall within the categories of interexchange carriers, operator service providers, prepaid calling card providers, satellite service carriers, or toll resellers. Wired Telecommunications Carriers is the closest industry with a SBA small business size standard. The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small. U.S. Census Bureau data for 2017 show that there were 3,054 firms in this industry that operated for the entire year. Of this number, 2,964 firms operated with fewer than 250 employees. Additionally, based on Commission data in the 2021 Universal Service Monitoring Report, as of December 31, 2020, there were 115 providers that reported they were engaged in the provision of other toll services. Of these providers, the Commission estimates that 113 providers have 1,500 or fewer employees. Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

2. Wireless Carriers

19. *Wireless Telecommunications Carriers (except Satellite).* This industry comprises establishments engaged in operating and maintaining switching and transmission facilities to provide communications via the airwaves. Establishments in this industry have spectrum licenses and provide services using that spectrum, such as cellular services, paging services, wireless

internet access, and wireless video services. The SBA size standard for this industry classifies a business as small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2017 show that there were 2,893 firms in this industry that operated for the entire year. Of that number, 2,837 firms employed fewer than 250 employees. Additionally, based on Commission data in the 2021 Universal Service Monitoring Report, as of December 31, 2020, there were 797 providers that reported they were engaged in the provision of wireless services. Of these providers, the Commission estimates that 715 providers have 1,500 or fewer employees. Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

20. *Satellite Telecommunications.* This category comprises firms "primarily engaged in providing telecommunications services to other establishments in the telecommunications and broadcasting industries by forwarding and receiving communications signals via a system of satellites or reselling satellite telecommunications." Satellite telecommunications service providers include satellite and earth station operators. The SBA small business size standard for this industry classifies a business with \$38.5 million or less in annual receipts as small. U.S. Census Bureau data for 2017 show that 275 firms in this industry operated for the entire year. Of this number, 242 firms had revenue of less than \$25 million. Additionally, based on Commission data in the 2021 Universal Service Monitoring Report, as of December 31, 2020, there were 71 providers that reported they were engaged in the provision of satellite telecommunications services. Of these providers, the Commission estimates that approximately 48 providers have 1,500 or fewer employees. Consequently, using the SBA's small business size standard, a little more than of these providers can be considered small entities.

3. Resellers

21. *Local Resellers.* Neither the Commission nor the SBA have developed a small business size standard specifically for Local Resellers. Telecommunications Resellers is the closest industry with a SBA small business size standard. The Telecommunications Resellers industry comprises establishments engaged in purchasing access and network capacity from owners and operators of telecommunications networks and

reselling wired and wireless telecommunications services (except satellite) to businesses and households. Establishments in this industry resell telecommunications; they do not operate transmission facilities and infrastructure. Mobile virtual network operators (MVNOs) are included in this industry. The SBA small business size standard for Telecommunications Resellers classifies a business as small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2017 show that 1,386 firms in this industry provided resale services for the entire year. Of that number, 1,375 firms operated with fewer than 250 employees. Additionally, based on Commission data in the 2021 Universal Service Monitoring Report, as of December 31, 2020, there were 293 providers that reported they were engaged in the provision of local resale services. Of these providers, the Commission estimates that 289 providers have 1,500 or fewer employees. Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

22. *Toll Resellers.* Neither the Commission nor the SBA have developed a small business size standard specifically for Toll Resellers. Telecommunications Resellers is the closest industry with a SBA small business size standard. The Telecommunications Resellers industry comprises establishments engaged in purchasing access and network capacity from owners and operators of telecommunications networks and reselling wired and wireless telecommunications services (except satellite) to businesses and households. Establishments in this industry resell telecommunications; they do not operate transmission facilities and infrastructure. Mobile virtual network operators (MVNOs) are included in this industry. The SBA small business size standard for Telecommunications Resellers classifies a business as small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2017 show that 1,386 firms in this industry provided resale services for the entire year. Of that number, 1,375 firms operated with fewer than 250 employees. Additionally, based on Commission data in the 2021 Universal Service Monitoring Report, as of December 31, 2020, there were 518 providers that reported they were engaged in the provision of toll services. Of these providers, the Commission estimates that 495 providers have 1,500 or fewer employees. Consequently, using the SBA's small business size standard,

most of these providers can be considered small entities.

23. *Prepaid Calling Card Providers.* Neither the Commission nor the SBA has developed a small business definition specifically for prepaid calling card providers. Telecommunications Resellers is the closest industry with a SBA small business size standard. The Telecommunications Resellers industry comprises establishments engaged in purchasing access and network capacity from owners and operators of telecommunications networks and reselling wired and wireless telecommunications services (except satellite) to businesses and households. Establishments in this industry resell telecommunications; they do not operate transmission facilities and infrastructure. Mobile virtual network operators (MVNOs) are included in this industry. The SBA small business size standard for Telecommunications Resellers classifies a business as small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2017 show that 1,386 firms in this industry provided resale services for the entire year. Of that number, 1,375 firms operated with fewer than 250 employees. Additionally, based on Commission data in the 2021 Universal Service Monitoring Report, as of December 31, 2020, there were 58 providers that reported they were engaged in the provision of payphone services. Of these providers, the Commission estimates that 57 providers have 1,500 or fewer employees. Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

4. Other Entities

24. *All Other Telecommunications.* This industry is comprised of establishments primarily engaged in providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation. This industry also includes establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite systems. Providers of internet services (e.g. dial-up ISPs) or voice over internet protocol (VoIP) services, via client-supplied telecommunications connections are also included in this industry. The SBA small business size standard for this industry classifies firms with annual receipts of \$35 million or less as small. U.S. Census

Bureau data for 2017 show that there were 1,079 firms in this industry that operated for the entire year. Of those firms, 1,039 had revenue of less than \$25 million. Based on this data, the Commission estimates that the majority of "All Other Telecommunications" firms can be considered small.

D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities

25. In this document, we propose to expand the Commission's definition of "breach" to include inadvertent disclosures of customer information and seek comment on adopting a harm-based trigger for breach notifications. We also propose to require carriers to notify the Commission, in addition to the Secret Service and FBI, as soon as practicable after discovery of a breach. We also propose to eliminate the mandatory waiting period before notifying customers and instead require carriers to notify customers of CPNI breaches without unreasonable delay after discovery of a breach unless law enforcement requests a delay. We also seek comment on whether we should adopt minimum requirements for the content of customer breach notices, and we seek comment on whether our rules should address breaches of other types of sensitive personal information beyond CPNI. Finally, we propose to make changes to our TRS data breach reporting rule consistent with those we propose to our CPNI breach reporting rule.

26. Should the Commission decide to modify existing rules or adopt new rules to strengthen our data breach reporting rule, such action could potentially result in increased, reduced, or otherwise modified recordkeeping, reporting, or other compliance requirements for affected providers of service. We seek comment on the effect of any proposals on small entities. Entities, especially small businesses, are encouraged to quantify the costs and benefits of any reporting, recordkeeping, or compliance requirement that may be established in this proceeding.

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

27. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small

entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rules for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities.

28. The document seeks comment on the particular impacts that the proposed rules may have on small entities. Specifically, the document seeks comment on whether there are unique concerns or compliance barriers for small carriers that make notice to customers without unreasonable delay unfeasible; if there should be different notification requirements for small carriers; if streamlining notice requirements will benefit small providers; if a centralized reporting portal would reduce compliance barriers for small providers; and if a threshold trigger would benefit small providers.

F. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

29. None.

IV. Ordering Clauses

30. Accordingly, *it is ordered* that, pursuant to Sections 1, 2, 4(i), 4(j), 201, 202, 222, 225, 303(b), 303(r), 332 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 154(j), 201, 202, 222, 225, 303(b), 303(r), 332, this Notice of Proposed Rulemaking *is adopted*.

31. *It is further ordered*, that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis (IRFA), to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 64

Communications, Communications common carriers, Communications equipment, Individuals with disabilities, Reporting and recordkeeping requirements, Security measures, Telecommunications, Telephone.

Federal Communications Commission.

Marlene Dortch,
Secretary.

Proposed Rules

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 part 64 as follows:

PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

■ 1. The authority citation for part 64 continues to read as follows:

Authority: 47 U.S.C. 151, 152, 154, 201, 202, 217, 218, 220, 222, 225, 226, 227, 227b, 228, 251(a), 251(e), 254(k), 255, 262, 276, 403(b)(2)(B), (c), 616, 617, 620, 1401–1473, unless otherwise noted; Pub. L. 115–141, Div. P, sec. 503, 132 Stat. 348, 1091.

Subpart U—Customer Proprietary Network Information

■ 2. Amend § 64.2011 by revising paragraphs (a) through (e) to read as follows:

§ 64.2011 Notification of customer proprietary network information security breaches.

(a) A telecommunications carrier shall notify affected customers, the Federal Communications Commission (Commission), and other federal law enforcement of a breach of its customers' CPNI as provided in this section.

(b)(1) As soon as practicable after reasonable determination of a breach, a telecommunications carrier shall electronically notify the Commission, the United States Secret Service (USSS), and the Federal Bureau of Investigation (FBI) through a central reporting facility maintained by the Commission and made available on its website.

(2) If a law enforcement or national security agency notifies the carrier that public disclosure or notice to customers would impede or compromise an ongoing or potential criminal investigation or national security, such agency may direct the carrier not to so disclose or notify for an initial period of up to 30 days. Such period may be extended by the agency as reasonably necessary in the judgment of the agency. If such direction is given, the agency shall notify the carrier when it appears that public disclosure or notice to affected customers will no longer impede or compromise a criminal investigation or national security. The agency shall provide in writing its initial direction to the carrier, any subsequent extension, and any notification that notice will no longer

impede or compromise a criminal investigation or national security.

(c) Customer Notification. A telecommunications carrier shall notify affected customers of covered breaches of CPNI without unreasonable delay after discovery of the breach after notification to the Commission and law enforcement as described in paragraph (b) of this section.

(d) Recordkeeping. All carriers shall maintain a record, electronically or in some other manner, of any breaches discovered, notifications made to the Federal Communications Commission, USSS, and the FBI pursuant to paragraph (b) of this section, and notifications made to customers. The record must include, if available, dates of discovery and notification, a detailed description of the CPNI that was the subject of the breach, and the circumstances of the breach. Carriers shall retain the record for a minimum of 2 years.

(e) Definitions. As used in this section, a "breach" has occurred when a person, without authorization or exceeding authorization, has gained access to, used, or disclosed CPNI.

* * * * *

■ 3. Amend § 64.5111 by revising paragraphs (a) through (e) to read as follows:

§ 64.5111 Notification of customer proprietary network information security breaches.

(a) A TRS provider shall notify affected customers, the Federal Communications Commission (Commission), and other federal law enforcement of a breach of its customers' CPNI as provided in this section.

(b)(1) As soon as practicable after reasonable determination of a breach, a TRS provider shall electronically notify the Commission, the United States Secret Service (USSS), and the Federal Bureau of Investigation (FBI) through a central reporting facility maintained by the Commission and made available on its website.

(2) If a law enforcement or national security agency notifies the TRS provider that public disclosure or notice to customers would impede or

compromise an ongoing or potential criminal investigation or national security, such agency may direct the TRS provider not to so disclose or notify for an initial period of up to 30 days. Such period may be extended by the agency as reasonably necessary in the judgment of the agency. If such direction is given, the agency shall notify the TRS provider when it appears that public disclosure or notice to affected customers will no longer impede or compromise a criminal investigation or national security. The agency shall provide in writing its initial direction to the TRS provider, any subsequent extension, and any notification that notice will no longer impede or compromise a criminal investigation or national security and such writings shall be contemporaneously logged on the same reporting facility that contains records of notifications filed by TRS provider.

(c) Customer Notification. A TRS provider shall notify affected customers of covered breaches of CPNI without unreasonable delay after discovery of the breach after notification to the Commission and law enforcement as described in paragraph (b) of this section.

(d) Recordkeeping. All TRS provider shall maintain a record, electronically or in some other manner, of any breaches discovered, notifications made to the Federal Communications Commission, USSS, and the FBI pursuant to paragraph (b) of this section, and notifications made to customers. The record must include, if available, dates of discovery and notification, a detailed description of the CPNI that was the subject of the breach, and the circumstances of the breach. TRS providers shall retain the record for a minimum of 2 years.

(e) Definitions. As used in this section, a "breach" has occurred when a person, without authorization or exceeding authorization, has gained access to, used, or disclosed CPNI.

* * * * *

[FR Doc. 2023–00824 Filed 1–20–23; 8:45 am]

BILLING CODE 6712–01–P

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agency Information Collection Activities: Comment Request

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested regarding (1) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by February 22, 2023 will be considered. Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it

displays a currently valid OMB control number.

Office of the Chief Information Security Officer

Title: Request and Consent Forms for Privacy Records.

OMB Control Number: 0503–NEW.

Summary of Collection: OMB M–21–04 provides guidance for Federal agencies to modernize the processes by which individuals may request access to, and consent to the disclosure of, records protected under the Privacy Act of 1974. As required by the Creating Advanced Streamlined Electronic Services for Constituents Act of 2019 ("CASES Act"), this guidance outlines the responsibilities of agencies for accepting access and consent forms provided in a digital format from individuals who are properly identity-proofed and authenticated.

Need and Use of the Information: The information will be collected using the AD–3123, Consent for Disclosure of Records Protected Under the Privacy Act and the AD–3124, Request for Disclosure of Records Protected Under the Privacy Act. The following information will be collected: name, address, date of birth, place of birth, citizenship status, records requested, and any additional information to locate the record. If the individual requesting privacy information does not complete the form, USDA will not submit the information.

Description of Respondents: Individuals or households.

Number of Respondents: 300.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 240.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2023–01134 Filed 1–20–23; 8:45 am]

BILLING CODE 3410–18–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested regarding: whether the

collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques and other forms of information technology.

Comments regarding this information collection received by February 22, 2023 will be considered. Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Forest Service

Title: Storage and Use of Explosives and Magazine Security on National Forest System Lands Under a Special Use Authorization.

OMB Control Number: 0596–0252.

Summary of Collection: Existing directives in the Forest Service Manual and Handbook are being revised to improve security and administration of explosive magazines and explosives use that are authorized under a special use authorization. The revisions clarify that all non-Forest Service storage and use of explosives, including use and storage of military weapons and ammunition for purposes of avalanche mitigation on National Forest System lands, must be authorized by a special use authorization that contains clause B–29 in Forest Service Handbook 2709.11,

Chapter 50, section 52.2, on storage and use of explosives and magazine security. Clause B–29 requires authorization holders to comply with applicable United States Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives, state, or Department of the Army requirements and applicable Forest Service requirements.

Need and Use of the Information: To allow the Forest Service to monitor holder compliance with clause B–29, the revised directives require holders of an authorization containing the clause to submit certain documentation annually as part of their operating plan. The required documentation includes copies of a log containing the date and type of magazine inspections (including inspections required every seven days) and the date all deficiencies identified in any magazine inspection report were corrected; copies of any magazine inspection reports; a copy of the holder's current ATF-issued federal explosives license or federal explosives permit, if applicable; and a copy of a log containing the date of the most recent magazine lock and key replacement.

Description of Respondents: Holders of a special use authorization authorizing the storage and use of explosives.

Number of Respondents: 60.

Frequency of Responses: Annually.

Total Burden Hours: 10.

Forest Service

Title: Community Wildfire Defense Grant (CWDG) Program.

OMB Contol Number: 0596–0253.

Summary of Collection: The Community Wildfire Defense Grant Program forms will be used by applicants to apply for the Community Wildfire Defense Grant (CWDG) Program. The purpose of the CWDG Program is to assist at-risk local communities and Indian Tribes with planning and mitigating against the risk created by wildfire. This program is authorized in the Infrastructure Investment and Jobs Act (Pub. L. 117–58), commonly referred to as the Bipartisan Infrastructure Law (BIL). Specifically, the CWDG Program is provided for in Title VIII, Section 40803. There are two primary project types for which the grant provides funding: the development and revision of Community Wildfire Protection Plans (CWPP) and the implementation of projects described in a CWPP that is less than ten years old. The Act prioritizes at-risk communities that are in an area identified as having high or very high wildfire hazard potential, are low-income, and/or have been impacted by a severe disaster.

Need and Use of the Information: Information collected includes name of organization, type of land work where will be performed, how project addresses State Forest Action Plan and the Cohesive Wildland Fire Management Strategy, if the community is considered underserved, amount of Federal funds requested and any non-Federal matching funds, name of lead agency/organization (if any), grant period, project narrative, project budget, project outcomes, how project will be maintained, and other miscellaneous information. This information is collected from any entity who voluntarily applies for Forest Service funding and wishes to participate in the program. This information is used by the Forest Service to determine which projects will be funded by the Community Wildfire Defense Grant Program.

Description of Respondents: Not-for-profit institutions; State, Local, Tribal governments.

Number of Respondents: 1,440.

Frequency of Responses: Annually.

Total Burden Hours: 9,870.

Levi S. Harrell,

Departmental Information Collection Clearance Officer.

[FR Doc. 2023–01168 Filed 1–20–23; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Rural Housing Service

[Docket No. RHS–23–Admin–0001]

Notice of Request for Approval of a New Information Collection

AGENCY: Rural Housing Service, Rural Business-Cooperative Service, and Rural Utilities Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the Rural Business-Cooperative Service, Rural Housing Service, and the Rural Utilities Service, agencies of the Rural Development mission area within the U.S. Department of Agriculture (USDA), hereinafter collectively referred to as the Agency to request approval for a new information collection in support of compliance with applicable acts for federal debt credit reporting and employment verification.

DATES: Comments on this notice must be received by March 24, 2023.

ADDRESSES: Comments may be submitted by the following method:

- **Federal eRulemaking Portal:** This website provides the ability to type short comments directly into the comment field on this web page or attach a file for lengthier comments. Go to <http://www.regulations.gov>. Follow the on-line instructions at that site for submitting comments.

FOR FURTHER INFORMATION CONTACT:

Lynn Gilbert, Rural Development Innovation Center—Regulations Management Division, USDA, 1400 Independence Avenue SW, South Building, Washington, DC 20250–1522. Telephone: (202) 690–2682. Email lynn.gilbert@usda.gov.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget's (OMB) regulation (5 CFR 1320) implementing provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13) requires that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d)). This notice identifies an information collection that Rural Development is submitting to OMB for a new collection.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (b) 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; (c) Ways to enhance the quality, utility and clarity of the information to be collected; and (d) Ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments may be sent by the Federal eRulemaking Portal: Go to <http://www.regulations.gov> and, in the lower "Search Regulations and Federal Actions" box, select "RHS" from the agency drop-down menu, then click on "Submit." In the Docket ID column, select RHS–23–Admin–0001 to submit or view public comments and to view supporting and related materials available electronically. Information on using *Regulations.gov*, including instructions for accessing documents, submitting comments, and viewing the docket after the close of the comment period, is available through the site's "User Tips" link.

Title: 7 CFR 1910—Common Forms Package for Federal Debt and Employment Verification Forms.

OMB Number: 0575–New.

Expiration Date of Approval: Three years from approval date.

Type of Request: New information collection.

Abstract: The information collection under OMB Number 0575–New will enable the Agencies to effectively monitor a recipient's compliance with the federal debt reporting and to determine employment verification and eligibility for Federal financial assistance.

The Agencies offer supervised credit programs to build modest housing and essential community facilities in rural areas. Section 517(d) of Title V of the Housing Act of 1949, as amended, provides the authority for the Secretary of Agriculture to issue loan guarantees for the acquisition of new or existing dwellings and related facilities to provide decent, safe, and sanitary living conditions and other structures in rural areas.

Because the Agency extends credit through loan guarantees, it is necessary to collect information from both a potential homebuyer, lender or other entity. All information collected is vital for the Agency to determine if borrowers qualify for all assistance for which they are eligible.

The Agency loan guarantee is used to offset the lender's risk of originating loan-to-value ratio loans in rural areas and is not intended to offset risks that stem from inadequate employment, credit history, or substandard property condition. Lenders must provide the Agency with clear and accurate information so Agency staff can promptly determine if the loan qualifies for a loan guarantee.

Information requested can include financial documents such as confirmation of household income, assets and liabilities, a credit record, evidence the borrower has adequate repayment ability for the loan amount requested and if the condition and location of the property meet program guidelines. All information is necessary to confirm the borrower qualifies for all assistance for which they are eligible.

In accordance with OMB Circular A–129, Agencies must make sure that lenders and servicers participating in Federal Credit programs meet all applicable financial and programmatic requirements. To ensure these standards are met, the Agency must collect documentation that demonstrates the lender's ability to originate, underwrite, service and report loans in accordance with Agency program guidelines is

collected. Information collected must support that a participating lender has a high standard of demonstrated ability to originate and service sound loans and operates in a prudent and businesslike manner.

Estimate of Burden: RD is requesting approval for one respondent and a one-hour place holder in order for OMB to issue a control number for these forms. The burden for each of the forms will be accounted for within the individual Rural Development program collection packages using the form(s).

Respondents: Not-for-profit institutions; Business or other for profit.

**ESTIMATED NUMBER OF RESPONSES
PER RESPONDENT PER FORM IN
PACKAGE**

Form No.	Responses per respondent
1910–11, 1910–5	1

Comments from interested parties are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

Joaquin Altoro,

Administrator, Rural Housing Service.

[FR Doc. 2023–01211 Filed 1–20–23; 8:45 am]

BILLING CODE 3410–XY–P

DEPARTMENT OF COMMERCE

Census Bureau

**Agency Information Collection
Activities; Submission to the Office of
Management and Budget (OMB) for
Review and Approval; Comment
Request; Annual Business Survey**

The Department of Commerce will submit the following information collection request to the Office of

Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. We invite the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. Public comments were previously requested via the **Federal Register** on July 6, 2020 during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: U.S. Census Bureau, Department of Commerce.

Title: Annual Business Survey.

OMB Control Number: 0607–1004.

Form Number(s): ABS.

Type of Request: Regular submission, Request for a Revision of a Currently Approved Collection.

Number of Respondents: 858,000.

Average Hours per Response:

Employer businesses—58 minutes; Nonprofit organizations who are R&D performers—3.5 hours; Nonprofit organizations who are not R&D performers—20 minutes.

Burden Hours: 827,500.

Needs and Uses: In an effort to improve the measurement of business dynamics in the United States, the Census Bureau plans to conduct the 2023 Annual Business Survey (ABS), covering reference year 2022. The ABS combines Census Bureau firm-level collections to reduce respondent burden, increase data quality, reduce operational costs, and operate more efficiently. The ABS provides information on selected economic and demographic characteristics for businesses and business owners by sex, ethnicity, race, and veteran status. Further, the survey measures research and development for microbusinesses, new business topics such as innovation and technology, as well as other business characteristics. The 2023 ABS is co-sponsored by the National Center for Science and Engineering Statistics (NCSES) within the National Science Foundation (NSF) and conducted by the Census Bureau.

The ABS includes all nonfarm employer businesses filing Internal Revenue Service (IRS) tax forms as individual proprietorships, partnerships, or any other type of corporation, with receipts of \$1,000 or more. For the 2023 ABS, approximately 850,000 employer businesses will be sampled (reference year 2022). The large sample sized is needed to produce detailed statistics by owner demographics. Results from the large

sample size will allow the Census Bureau to produce tabulations by detailed NAICS (2–6 digit), detailed geography (US, state, metropolitan statistical area (msa), county, and economic place), and detailed race (*i.e.* Chinese, Filipino, Japanese, Samoan, etc.). Starting with survey year 2024 (reference year 2023), the sample is reduced to approximately 300,000 employer businesses annually (survey years 2024–2027) to reduce the burden on the respondents. The reduced sample size will yield summary-level estimates for women-owned, minority-owned, and veteran-owned businesses at the 3-digit NAICS, U.S., state and metropolitan statistical area (MSA) levels. The Census Bureau uses administrative data to estimate the probability that a firm is minority- or women-owned. Each firm is then placed in one of eight frames for sampling. The sampling frames are: American Indian or Alaskan Native, Asian, Black or African American, Hispanic, Native Hawaiian and Other Pacific Islander, Non-Hispanic White Men, Publicly Owned, and Women. The sample is stratified by state, industry, and frame. The Census Bureau selects some companies with certainty based on volume of sales, payroll, and number of paid employees or NAICS. All certainty cases are sure to be selected and represent only themselves.

The 2023 ABS (reference year 2022) will also sample 8,000 nonprofit organizations to collect their research activities. Historically, nonprofit organizations were in scope to the ABS, however, they were not surveyed before the 2021 ABS because the survey does not expect nonprofit organizations to be classifiable by sex, ethnicity, race, or veteran status. To include the nonprofit organizations, the sample size increased to approximately 858,000 (850,000 employer businesses + 8,000 nonprofit organizations). Of note, nonprofit organizations will only see questions relating to research activities and will not be asked any questions relating to owner demographics.

The ABS is designed to allow for incorporating new content each survey year based on topics of relevance. Each year new questions will be submitted to the Office of Management and Budget (OMB) for approval.

Employer businesses will be asked questions about the sex, ethnicity, race, and veteran status for up to four persons owning the majority of rights, equity, or interest in the business (Section B of the questionnaire). Organizations sampled as nonprofits and respondents with 1–9 employees will be asked about research and development (R&D) activities, R&D costs, and R&D capital

expenditures. Further, employer businesses sampled will be asked about the following topics: Goods, Services, and Business Processes; Financing; Technology and Intellectual Property and Sustainability and Climate Impact.

The ABS is primarily collected via an electronic or web-based instrument. Respondents selected for the survey receive an initial letter informing them of their requirement to complete the survey as well as instructions on accessing the survey. The 2023 ABS initial mailing is scheduled for July 2023. Responses will be due approximately 30 days from initial mailing. Respondents will also receive a due date reminder approximately one week before responses are due. The Census Bureau plans to conduct two follow-up mailings and an optional third follow-up if deemed necessary based on check-in. Nonrespondents may receive a certified mailing for the second and third follow-up mailings. The Census Bureau may also plan to conduct an email follow-up to select nonrespondents reminding them to submit their report in the electronic instrument. The Census Bureau may include a paper questionnaire during the follow-up activities to assist with collecting data from select nonrespondents. Closeout of mail operations is scheduled for December 2023 but may be extended to allow ample time to receive returned forms if necessary. Response data will be processed as they are received. Upon the close of the collection period, data processing will continue, and records will be edited, reviewed, tabulated, and disseminated.

The Annual Business Survey uses the collection year in the survey name rather than a single reference year. Therefore, the 2023 ABS covers mostly reference year 2022.

Statistics from the ABS will be used by government program officials, industry organization leaders, economic and social analysts, business entrepreneurs, and domestic and foreign researchers in academia, business, and government. Estimates produced on owner demographic data may be used to assess business assistance needs, allocate available program resources, and create a framework for planning, directing, and assessing programs that promote the activities of disadvantaged groups; to assess minority-owned businesses by industry and area and to educate industry associations, corporations, and government entities; to analyze business operations in comparison to similar firms, compute market share, and assess business growth and future prospects. Estimates

produced on R&D and innovation may be used to compare R&D costs across industries, determine where R&D activity is conducted geographically, and identify the types of businesses with R&D; to contribute to the Bureau of Economic Analysis (BEA) system of national accounts; to increase investments in research and development, strengthen education, and encourage entrepreneurship; and to compare business innovation in the United States to other countries, including those in the European Union. Results of the research activities data collected from nonprofit organizations will be used to report updated, valid, and reliable estimates of U.S. nonprofit R&D in National Patterns of R&D Resources and BEA's system of national accounts.

The data collected by ABS will also be incorporated into the National Science Board's biennial report, Science and Engineering Indicators (SEI). The R&D data from the nonprofit module will be reported in the Organization for Economic Cooperation and Development (OECD) periodic publications and for international comparisons of R&D efforts. NCSES also anticipates professional associations will use data from the nonprofit module. Likely users in this category include, but are not limited to, the Science Philanthropy Alliance, the Association of Independent Research Institutes, and the Health Research Alliance.

Additional examples of data use include:

- The Small Business Administration (SBA) and the Minority Business Development Agency (MBDA) to assess business assistance needs and allocate available program resources.
- Local government commissions on small and disadvantaged businesses to establish and evaluate contract procurement practices.
- Federal, state and local government agencies as a framework for planning, directing and assessing programs that promote the activities of disadvantaged groups.
- The National Women's Business Council to assess the state of women's business ownership for policymakers, researchers, and the public at large.
- Consultants and researchers to analyze long-term economic and demographic shifts, and differences in ownership and performance among geographic areas.
- Individual business owners to analyze their operations in comparison to similar firms, compute their market share, and assess their growth and future prospects.

Frequency: Annually.

Respondent's Obligation: Mandatory.

Legal Authority: Title 13, United States Code, sections 8(b), 131, and 182; Title 42, United States Code, section 1861–76 (National Science Foundation Act of 1950, as amended); and section 505 within the America COMPETES Reauthorization Act of 2010 authorize this collection. Sections 224 and 225 of Title 13, United States Code, require a response from sampled firms.

This information collection request may be viewed at www.reginfo.gov. Follow the instructions to view the Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function and entering either the title of the collection or the OMB Control Number 0607–1004.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2023–01147 Filed 1–20–23; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Miscellaneous Licensing Responsibilities and Enforcement

The Department of Commerce will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. We invite the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. Public comments were previously requested via the **Federal Register** on November 10, 2022, during a 60-day comment period. This notice allows for an additional 30 days for public comments.

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

Title: Miscellaneous Licensing Responsibilities and Enforcement.

OMB Control Number: 0694–0122.

Form Number(s): None.

Type of Request: Extension of a current information collection.

Number of Respondents: 2,224,151.

Average Hours per Response: 5 seconds to 4 hours.

Burden Hours: 97,456.

Needs and Uses: This collection of information involves ten miscellaneous activities described in Sections 744.15(b), Part 744 Supplement No. 7, paragraph (d), § 748.4 and Part 758 of the EAR that are associated with the export of items controlled by the Department of Commerce. Most of these activities do not involve submission of documents to the BIS but instead involve exchange of documents among parties in the export transaction to ensure that each party understands its obligations under U.S. law. Others involve writing certain export control statements on shipping documents or reporting unforeseen changes in shipping and disposition of exported commodities. These activities are needed by the Office of Export Enforcement and the U.S. Customs Service (Customs) to document export transactions, enforce the EAR and protect the National Security of the United States.

Affected Public: Business or other for-profit organizations.

Frequency: On Occasion.

Respondent's Obligation: Voluntary.

Legal Authority: Export Control Reform Act (ECRA) of 2018.

This information collection request may be viewed at www.reginfo.gov. Follow the instructions to view the Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function and entering either the title of the collection or the OMB Control Number 0694–0122.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2023–01186 Filed 1–20–23; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–851, A–485–805]

Carbon and Alloy Seamless Standard, Line and Pressure Pipe (Under 4½ Inches) From Japan and Romania: Final Results of the Expedited Fourth Sunset Reviews of the Antidumping Duty Orders

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: As a result of these expedited sunset reviews, the U.S. Department of Commerce (Commerce) finds that revocation of the antidumping duty orders on carbon and alloy seamless standard, line and pressure pipe (under 4½ inches) (small diameter pipe) from Japan and Romania would likely lead to the continuation or recurrence of dumping at the levels indicated in the “Final Results of Review” section of this notice.

DATES: Applicable January 23, 2023.

FOR FURTHER INFORMATION CONTACT: Katherine Johnson, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–4929.

SUPPLEMENTARY INFORMATION:

Background

On October 3, 2022, Commerce published the notice of initiation of the fourth sunset reviews of the antidumping duty orders¹ on small diameter pipe from Japan and Romania pursuant to section 751(c)(2) of the Tariff Act of 1930, as amended (the Act).² These sunset reviews cover the five-year period from 2017 to 2021. On October 17, 2022, Commerce received notices of intent to participate from Vallourec Star, L.P. and United States Steel Corporation (collectively, the domestic interested parties) within the deadline specified in 19 CFR

¹ See *Notice of Antidumping Duty Orders: Certain Large Diameter Carbon and Alloy Seamless Standard, Line and Pressure Pipe from Japan; and Certain Small Diameter Carbon and Alloy Seamless Standard, Line and Pressure Pipe from Japan and the Republic of South Africa*, 65 FR 39360 (June 26, 2000); and *Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Small Diameter Carbon and Alloy Seamless Standard, Line and Pressure Pipe from Romania*, 65 FR 48963 (August 10, 2000) (collectively, *Orders*).

² See *Initiation of Five-Year (Sunset) Reviews*, 87 FR 59779 (October 3, 2022).

351.218(d)(1)(i).³ These companies claimed interested party status under section 771(9)(C) of the Act as domestic producers of small diameter pipe in the United States.

Commerce received complete substantive responses from the domestic interested parties on November 2, 2022, within the 30-day deadline specified in 19 CFR 351.218(d)(3).⁴ No respondent interested party submitted a substantive response. As a result, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), Commerce is conducted expedited (120-day) sunset reviews of the *Orders*. On October 27, 2022, Commerce notified the U.S. International Trade Commission that it did not receive an adequate substantive response from respondent interested parties in these sunset reviews.⁵

Scope of the Orders

The merchandise subject to the *Orders* is small diameter seamless pipe. The product is currently classified under the Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7304.10.10.20, 7304.10.50.20, 7304.19.10.20, 7304.19.50.20, 7304.31.30.00, 7304.31.60.50, 7304.39.00.16, 7304.39.00.20, 7304.39.00.24, 7304.39.00.28, 7304.39.00.32, 7304.51.50.05, 7304.51.50.60, 7304.59.60.00, 7304.59.80.10, 7304.59.80.15, 7304.59.80.20, and 7304.59.80.25. The HTSUS subheadings are provided for convenience and customs purposes only; the written product description of the scope of the *Orders* is dispositive.⁶

³ See Domestic Interested Party's Letters, "Notice of Intent to Participate in the Fourth Five-Year Review of the Antidumping Duty Order on Carbon and Alloy Seamless Standard, Line and Pressure Pipe (Under 4½ Inches) from Japan," dated October 17, 2022; and "Notice of Intent to Participate in the Fourth Five-Year Review of the Antidumping Duty Order on Carbon and Alloy Seamless Standard, Line and Pressure Pipe (Under 4½ Inches) from Romania," dated October 17, 2022.

⁴ See Domestic Interested Party's Letters, "Carbon and Alloy Seamless Standard, Line and Pressure Pipe (Under 4½ Inches) from Japan, Fourth Five-Year Review: Substantive Response to Notice of Initiation," dated November 2, 2022; and "Carbon and Alloy Seamless Standard, Line and Pressure Pipe (Under 4½ Inches) from Romania, Fourth Five-Year Review: Substantive Response to Notice of Initiation," dated November 2, 2022.

⁵ See Commerce's Letter, "Sunset Reviews for October 2022," dated October 27, 2022.

⁶ For a full description of the scope of the *Orders*, see Memorandum, "Issues and Decision Memorandum for the Final Results of the Expedited Fourth Sunset Reviews of the Antidumping Duty Orders on Carbon and Alloy Seamless Standard, Line and Pressure Pipe (Under 4½ Inches) from Japan and Romania," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

Analysis of Comments Received

All issues raised in these sunset reviews are addressed in the accompanying Issues and Decision Memorandum.⁷ A list of topics discussed in the Issues and Decision Memorandum is included as the appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

Final Results of Review

Pursuant to sections 751(c)(1) and 752(c)(1) and (3) of the Act, Commerce determines that revocation of the *Orders* would be likely to lead to the continuation or recurrence of dumping, and that the magnitude of the margins likely to prevail is up to 106.07 percent (Japan) and 14.25 percent (Romania).

Administrative Protective Order

This notice also serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

Notification to Interested Parties

We are issuing and publishing these final results and notice in accordance with sections 751(c), 752(c), and 777(i)(1) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2) and 19 CFR 351.221(c)(5)(ii).

Dated: January 17, 2023.

Abdelali Elouaradia,
Deputy Assistant Secretary for Enforcement and Compliance.

Appendix—List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the *Orders*
- IV. History of the *Orders*
- V. Legal Framework
- VI. Discussion of the Issues

⁷ See Issues and Decision Memorandum.

1. Likelihood of Continuation or Recurrence of Dumping
2. Magnitude of the Dumping Margins Likely To Prevail
- VII. Final Results of Sunset Reviews
- VIII. Recommendation

[FR Doc. 2023–01212 Filed 1–20–23; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC707

Endangered Species; File No. 27106; Extension of Public Comment Period

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

ACTION: Notice; receipt of application and conservation plan for an incidental take permit; extension of public comment period.

SUMMARY: We, NMFS, announce the extension of the public comment period on our December 22, 2022, notice of receipt of application and conservation plan for an incidental take permit. North Carolina Department of Environment and Natural Resources, Division of Marine Fisheries (NCDMF) has applied in due form for a permit pursuant to the Endangered Species Act of 1973, as amended (ESA). As required by the ESA, NCDMF's application includes a conservation plan designed to minimize and mitigate take of endangered or threatened species. The permit application is for the incidental take of ESA-listed sea turtles and sturgeon associated with the otherwise lawful gill net fisheries operating in the inshore waters of North Carolina. The duration of the requested permit is 10 years.

DATES: The comment period for the document published at 87 FR 78659 on December 22, 2022, is extended. The comment period was originally scheduled to close on January 23, 2023. We are extending the public comment period by 30 days to February 22, 2023. Comments previously submitted do not need to be resubmitted.

ADDRESSES: The application is available for download and review at <https://www.fisheries.noaa.gov/national/endangered-species-conservation/incidental-take-permits> and at <https://www.regulations.gov>. The application is also available upon request (see **FOR FURTHER INFORMATION CONTACT**).

You may submit comments, identified by NOAA–NMFS–2022–0115, by Electronic Submission: Submit all

electronic public comments via the Federal eRulemaking Portal <https://www.regulations.gov> and enter NOAA–NMFS–2022–0115 in the Search box. Click on the “Comment Now!” icon, complete the required fields, and enter or attach your comments.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on <https://www.regulations.gov> without change. All Personal Identifying Information (e.g., name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information. We will accept anonymous comments (enter N/A in the required fields, if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT:

Celeste Stout, NMFS, Office of Protected Resources at email: celeste.stout@noaa.gov or phone: (301) 427–8436; Wendy Piniak, NMFS, Office of Protected Resources at wendy.piniak@noaa.gov.

SUPPLEMENTARY INFORMATION:

Background

On December 22, 2022, we published a notice of receipt of application and conservation plan from NCDMF for an incidental take permit. In that notice we made the incidental take permit application and associated conservation plan available for public comment.

We received a request to extend the public comment period to a minimum of 120 days in order to provide the public with additional time to gather relevant information and adequately comment on the application and conservation plan in a meaningful and constructive manner. We considered the request and concluded that a 30-day extension should allow sufficient time for responders to submit comments without significantly delaying the completion of our review. We are therefore extending the close of the public comment period from January 23, 2023, to February 22, 2023. Comments previously submitted do not need to be resubmitted.

Authority: The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: January 18, 2023.

Angela Somma,

Chief, Endangered Species Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2023–01210 Filed 1–20–23; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XC702]

North Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of hybrid conference meetings.

SUMMARY: The North Pacific Fishery Management Council (Council) and its advisory committees will meet February 6, 2023 through February 13, 2023.

DATES: The Council’s Scientific and Statistical Committee (SSC) will begin at 8 a.m. in the Courtyard Ballroom on Monday, February 6, 2023, and continue through Tuesday, February 7, 2023, at 1 p.m. The Council’s SSC workshop will begin at 1 p.m. in the Courtyard Ballroom on Tuesday, February 7, 2023, at continue through Wednesday, February 8, 2023. The Council’s Advisory Panel (AP) will begin at 8 a.m. in the North/West room on Tuesday, February 7, 2023, and continue through Friday, February 10, 2023. The Council will begin at 8 a.m. in the Courtyard Ballroom on Thursday, February 9, 2023, and continue through Monday, February 13, 2023. All times listed are Pacific Time.

ADDRESSES: The meetings will be a hybrid conference. The in-person component of the meeting will be held at the Renaissance Hotel, 515 Madison St. Seattle, WA 98104, or join the meeting online through the links at <https://www.npfmc.org/upcoming-council-meetings>.

Council address: North Pacific Fishery Management Council, 1007 W 3rd Ave, Anchorage, AK 99501–2252; telephone: (907) 271–2809. Instructions for attending the meeting via webconference are given under Connection Information, below.

FOR FURTHER INFORMATION CONTACT:

Diana Evans, Council staff; email: diana.evans@noaa.gov; telephone: (907) 271–2809. For technical support, please contact our Council administrative staff, email: npfmc.admin@noaa.gov.

SUPPLEMENTARY INFORMATION:

Agenda

Monday, February 6, 2023, through Tuesday, February 7, 2023

The SSC agenda will include the following issues:

(1) NSRKC (Norton Sound Red King Crab) ABC (acceptable biological catch)/OFL (overfishing limit)—Set Specifications, Crab Plan Team Report;

(2) EFH (essential fish habitat) 5-year review summary report—Review EFH for Arctic FMP (fishery management plan) species;

(3) Groundfish stock prioritization proposal—Review AFSC (Alaska Fishery Science Center) prioritization proposal;

(4) Climate Change Taskforce Climate Resiliency Synthesis—Review;

(5) GOA (Gulf of Alaska) Groundfish bottom Trawl Survey Changes—Review.

The agenda is subject to change, and the latest version will be posted at <https://meetings.npfmc.org/Meeting/Details/2976> prior to the meeting, along with meeting materials.

In addition to providing ongoing scientific advice for fishery management decisions, the SSC functions as the Council’s primary peer review panel for scientific information, as described by the Magnuson-Stevens Act section 302(g)(1)(e), and the National Standard 2 guidelines (78 FR 43066). The peer-review process is also deemed to satisfy the requirements of the Information Quality Act, including the OMB Peer Review Bulletin guidelines.

Tuesday, February 7, 2023, through Wednesday, February 8, 2023

The SSC workshop agenda will focus on rapid ecosystem changes in the northern Bering Sea and southern Chukchi Sea. The workshop will consider how species that are currently managed under the Bering Sea Fishery Management Plans will respond to environmental changes and the potential socioeconomic and cultural impacts of those fishermen, communities and Tribes who rely on these marine resources. The last component of the workshop will focus on bridging the gaps between science and management and will include an exploration of proactive approaches for achieving management goals in a changing environment. The agenda is subject to change, and the latest version will be posted at <https://meetings.npfmc.org/Meeting/Details/2967> prior to the meeting, along with meeting materials.

Tuesday, February 7, 2023, through Friday, February 10, 2023

The Advisory Panel agenda will include the following issues:

(1) Area 4 vessel use cap interim measures—Initial Review/Final Action;

(2) Snow Crab Rebuilding analysis—Final Action;

(3) NSRKC ABC/OFL—Set specifications, Crab Plan Team Report;

(4) AIGKC (Aleutian Island Golden King Crab) facility use caps discussion paper;

(5) EFH 5-year review summary report—Review, Ecosystem Committee Report, NOAA Coral/Sponge research program update;

(6) BSAI (Bering Sea Aleutian Islands) Pot CP (catcher processor) Monitoring Adjustments—Initial Review/Final Action;

(7) PSEIS (programmatic supplemental environmental impact statement) discussion paper—Review, Ecosystem Committee Report;

(8) Groundfish stock prioritization proposal—Review, Joint Groundfish Plan Team report;

(9) Trawl EM (electronic monitoring) Committee Report—Review;

(10) Universal data collection discussion paper on crew, lease cost collection—Review;

(11) Staff Tasking.

Thursday, February 9, 2023, through Monday, February 13, 2023

The Council agenda will include the following issues. The Council may take appropriate action on any of the issues identified.

(1) B Reports (Executive Director, NMFS Management, NOAA GC, AFSC, ADF&G, USCG, USFWS, IPHC report (T), Advisory Panel, SSC report);

(2) Snow Crab Rebuilding analysis—Final Action;

(3) NSRKC ABC/OFL—Set specifications, Crab Plan Team Report;

(4) AIGKC (Aleutian Island Golden King Crab) facility use caps discussion paper;

(5) Area 4 vessel use cap interim measures—Initial Review/Final Action;

(6) EFH 5-year review summary report—Review, Ecosystem Committee Report, NOAA Coral/Sponge research program update;

(7) BSAI Pot CP Monitoring Adjustments—Initial Review/Final Action;

(8) PSEIS discussion paper—Review, Ecosystem Committee Report;

(9) Groundfish stock prioritization proposal—Review, Joint Groundfish Plan Team report;

(10) Trawl EM Committee Report—Review;

(11) Universal data collection discussion paper on crew, lease cost collection—Review;

(12) Staff Tasking, including consideration of whether to rescind the Halibut Catch Share Plan revised allocations motion from February 2022.

Connection Information

You can attend the meeting online using a computer, tablet, or smart phone; or by phone only. Connection information will be posted online at: <https://www.npfmc.org/upcoming-council-meetings>. For technical support please contact our administrative staff, email: npfmc.admin@noaa.gov.

If you are attending the meeting in-person, please refer to the COVID avoidance protocols on our website, <https://www.npfmc.org/upcoming-council-meetings/>.

Public Comment

Public comment letters will be accepted and should be submitted electronically through the links at <https://www.npfmc.org/upcoming-council-meetings>. The Council strongly encourages written public comment for this meeting, to avoid any potential for technical difficulties to compromise oral testimony. The written comment period is open from January 13, 2023, to February 3, 2023, and closes at 12 p.m. Alaska Time on Friday February 3, 2023.

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

Dated: January 18, 2023.

Rey Israel Marquez,

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

[FR Doc. 2023-01184 Filed 1-20-23; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XC699]

Mid-Atlantic Fishery Management Council (MAFMC); Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The Mid-Atlantic Fishery Management Council (Council) will hold public meetings of the Council and its Executive Committee.

DATES: The meetings will be held Tuesday, February 7 through Thursday, February 9, 2023. For agenda details, see **SUPPLEMENTARY INFORMATION.**

ADDRESSES: This is an in-person meeting with a virtual option. The meeting will be held at The Hotel Washington (515 15th Street NW, Washington, DC 20004), telephone: (202) 661-2400. Webinar registration details will be available on the Council's website at <https://www.mafmc.org/briefing/february-2023>.

Council address: Mid-Atlantic Fishery Management Council, 800 N State St., Suite 201, Dover, DE 19901; telephone: (302) 674-2331; www.mafmc.org.

FOR FURTHER INFORMATION CONTACT:

Christopher M. Moore, Ph.D. Executive Director, Mid-Atlantic Fishery Management Council; telephone: (302) 526-5255. The Council's website, www.mafmc.org also has details on the meeting location, proposed agenda, webinar listen-in access, and briefing materials.

SUPPLEMENTARY INFORMATION: The following items are on the agenda, although agenda items may be addressed out of order (changes will be noted on the Council's website when possible.)

Tuesday, February 7, 2023

Executive Committee (Closed Session)

Ricks E Savage Award

Council Convenes

NOAA Fisheries Overview

(Janet Coit, Assistant Administrator, NOAA Fisheries)

Update from NOAA Fisheries Assistant Administrator

Monkfish (Framework Adjustment 13 & Research Set-Aside (RSA) Program)

(Dr. Rachel Feeney, New England Fishery Management Council (NEFMC))

Final action on 2023–2025

specifications and other measures with consideration of additional NEFMC Scientific and Statistical Committee (SSC) input on ABCs.

Monkfish RSA—revisit 2023–2024 RSA priorities

Squid Squad Update

(Kim Hyde and Anna Mercer, Northeast Fisheries Science Center (NEFSC))

Update on the ongoing work of the “Squid Squad”, a collaborative effort to continue advancing knowledge of the *Illex* Squid.

Illex Permit Action Follow-up

Review NOAA Fisheries response to Council letter

Consider initiating any related 2023 actions

Lessons Learned—Piloting an Automatic Jigging Machine in Southern New England Squid Fisheries (Longfin)

(Dr. David Bethoney, Commercial Fisheries Research Foundation)
Presentation on preliminary results, challenges faced, and lessons learned from this project

Wednesday, February 8, 2023

Highly Migratory Species (HMS) Update

(Randy Blankinship, Chief, Atlantic HMS Management Division, Office of Sustainable Fisheries, NOAA Fisheries)

Recent and ongoing management initiatives

Outcomes of the November 2022 International Commission for Conservation of Atlantic Tunas (ICCAT) meeting

Bluefish and Spiny Dogfish Research Track Assessments

(Russ Brown, Supervisory Research Fishery Biologist, NEFSC, NOAA Fisheries)

Overview of recently completed Track Assessments

Atlantic Large Whale Take Reduction Team

(Colleen Coogan, Protected Resources, NOAA Fisheries)

Update and potential impacts to Mid-Atlantic Fisheries

Financial Disclosure and Recusal Presentation

(John Almeida, General Counsel, NOAA Fisheries)

NOAA Guidance to Councils on Financial Disclosures and Voting Recusal

Atlantic Surfclam and Ocean Quahog Industry Presentation

(Roger Mann, Virginia Institute of Marine Science Site Director for SCMFIS)

Presentation by SCMFIS on survey examining the composition of surfclam and quahog in clam beds from Ocean City, MD to south of Hudson Canyon

Atlantic Surfclam and Ocean Quahog Species Separation Requirements Amendment

Review FMAT action plan for 2023 (*i.e.*, next steps) for amendment development

Review additional solutions/measures suggested by the Advisory Panel

NEFSC Cost Survey for Commercial Fishing Business Presentation

(Samantha Werner, Economist, NOAA Fisheries)

Update on the 2023 Northeast Commercial Fishing Cost Survey

Marine Resource Education Program (MREP) Overview

(Liz Moore, Atlantic Region MREP Program Manager, Gulf of Maine Research Institute)

Overview of the goals and accomplishments of the MREP program

Northeast Trawl Advisory Panel Presentation

Overview and purpose of NTAP
Update on recent activities

Thursday, February 9, 2023

Business Session

Committee Reports (SSC); Executive Director's Report (Review and reappoint SSC membership); Organization Reports; and Liaison Reports

Other Business and General Public Comment

Although non-emergency issues not contained in this agenda may come before this group for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), those issues may not be the subject of formal action during these meetings. Actions will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under Section 305(c).

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid should be directed to Shelley Spedden, (302) 526–5251, at least 5 days prior to the meeting date.

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

Dated: January 18, 2023.

Rey Israel Marquez,

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

[FR Doc. 2023–01183 Filed 1–20–23; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XC698]

New England Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of a public meeting.

SUMMARY: The New England Fishery Management Council's is convening its Scientific and Statistical Committee (SSC) via webinar to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This webinar will be held on Wednesday, February 8, 2023, beginning at 12 p.m. Webinar registration information: <https://attendee.gotowebinar.com/register/6043352840731616350>. Call in information: +1 (631) 992–3221, Access Code: 924–181–460.

ADDRESSES: *Council address:* New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Agenda

The Scientific and Statistical Committee will meet to discuss the expected SSC workplan and meeting timing for the remainder of 2023. They will provide guidance to Council staff and the project team on a Prototype Management Strategy Evaluation (pMSE) plan for Ecosystem-Based Fishery Management using a Georges Bank 10-stock operating model. Other business will be discussed as necessary.

Although non-emergency issues not contained on the agenda may come before this Council for discussion, those issues may not be the subject of formal action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency. The public also should be aware that the meeting will be recorded. Consistent with 16 U.S.C. 1852, a copy of the recording is available upon request.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies, Executive Director, at

(978) 465-0492, at least 5 days prior to the meeting date.

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

Dated: January 18, 2023.

Key Israel Marquez,

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

[FR Doc. 2023-01182 Filed 1-20-23; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XC653]

Fisheries of the South Atlantic, Gulf of Mexico, and Caribbean; Southeast Data, Assessment, and Review (SEDAR) Public Meeting

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

ACTION: Notice of the SEDAR Steering Committee meeting.

SUMMARY: The SEDAR Steering Committee will meet to discuss the SEDAR stock assessment process and assessment schedule. See

SUPPLEMENTARY INFORMATION.

DATES: The SEDAR Steering Committee will meet Tuesday, February 7, 2023, from 9 a.m. until 5 p.m., Eastern and from 9 a.m. until 12 p.m., Eastern on Wednesday, February 8, 2023. The established times may be adjusted as necessary to accommodate the timely completion of discussion relevant to the SEDAR process. Such adjustments may result in the meeting being extended from or completed prior to the time established by this notice.

ADDRESSES:

Meeting address: The SEDAR Steering Committee meeting will be held at the Doubletree by Hilton, 5264 International Blvd., North Charleston, SC 29418; phone: (843) 576-0300.

SEDAR address: 4055 Faber Place Drive, Suite 201, N Charleston, SC 29405; www.sedarweb.org.

FOR FURTHER INFORMATION CONTACT: Julie A. Neer, SEDAR Program Manager, 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405; phone: (843) 571-4366 or toll free: (866) SAFMC-10; fax: (843) 769-4520; email: Julie.neer@safmc.net.

SUPPLEMENTARY INFORMATION: The SEDAR Steering Committee provides guidance and oversight of the SEDAR stock assessment program and manages assessment scheduling. The items of discussion for this meeting are as follows: SEDAR Projects Update; SEDAR Projects Schedule; SEDAR Process Review and Discussions and Other Business.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

This meeting is accessible to people with disabilities. Requests for auxiliary aids should be directed to the SEDAR office (see **ADDRESSES**) at least 5 business days prior to the meeting.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: January 18, 2023.

Key Israel Marquez,

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

[FR Doc. 2023-01181 Filed 1-20-23; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF EDUCATION

Arbitration Panel Decisions Under the Randolph-Sheppard Act

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Notice.

SUMMARY: This notice lists arbitration panel decisions under the Randolph-Sheppard Act that the Department of Education (Department) made publicly available in accessible electronic format during the fourth quarter of 2022. All decisions are available on the Department's website and by request.

FOR FURTHER INFORMATION CONTACT: James McCarthy, U.S. Department of

Education, 400 Maryland Avenue SW, Room 5064D, Potomac Center Plaza, Washington, DC 20202-2800. Telephone: (202) 245-6703. Email: james.mccarthy@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: For the purpose of providing individuals who are blind with remunerative employment, enlarging their economic opportunities, and stimulating greater efforts to make themselves self-supporting, the Randolph-Sheppard Act, 20 U.S.C. 107 *et seq.* (Act), authorizes individuals who are blind to operate vending facilities on Federal property and provides them with a priority for doing so. The vending facilities include, among other things, cafeterias, snack bars, and automatic vending machines. The Department administers the Act and designates an agency in each participating State—the State licensing agency (SLA)—to license individuals who are blind to operate vending facilities on Federal and other property in the State.

The Act provides for arbitration of disputes between SLAs and vendors who are blind and between SLAs and Federal agencies before three-person panels, convened by the Department, whose decisions constitute final agency action. 20 U.S.C. 107d-1. The Act also makes these decisions matters of public record and requires their publication in the **Federal Register**. 20 U.S.C. 107d-2(c).

The Department publishes lists of Randolph-Sheppard Act arbitration panel decisions in the **Federal Register**. The full texts of the decisions listed are available on the Department's website (see below) or by request (see 82 FR 41941 (Sept. 5, 2017)). Older, archived decisions are also added to the Department's website as they are digitized.

Throughout 2022, the Department received and posted four new decisions issued by Randolph-Sheppard arbitration panels. In addition, the Department posted seven older decisions issued between March 2016 and December 2021. The following table lists these 11 decisions from most recent to oldest based on their decision dates.

Case name	Docket No.	Date	State
South Carolina Commission for the Blind v. United States Marine Corps	R-S/19-01	8/31/2022	South Carolina
Balani et al. v. California Department of Rehabilitation	R-S/19-05	8/8/2022	California.
Bechtel v. Washington State Services for the Blind	R-S/20-02	4/4/2022	Washington.

Case name	Docket No.	Date	State
Utah Services for the Blind and Visually Impaired v. United States Department of the Air Force, Hill Air Force Base.	R-S/20-04	2/14/2022	Utah.
Kneip v. Idaho Commission for the Blind and Visually Impaired	R-S/16-03	11/10/2021	Idaho.
Mitchell v. Louisiana Workforce Commission	R-S/16-11	4/30/2021	Louisiana.
Missouri Department of Social Services, Rehabilitation Services for the Blind v. United States Department of the Army, Fort Leonard Wood.	R-S/16-13	5/1/2019	Missouri.
Henderson v. Missouri Department of Social Services, Rehabilitation Services for the Blind.	R-S/15-02	10/13/2016	Missouri.
Crocker v. California Department of Rehabilitation	R-S/13-11	8/10/2016	California.
Brown v. Illinois Department of Human Services	R-S/13-10	4/5/2016	Illinois.
Oregon Commission for the Blind and Visually Impaired v. General Services Administration.	R-S/13-12	3/2/2016	Oregon.

These decisions and other decisions that we have already posted are searchable by key terms, are accessible under Section 508 of the Rehabilitation Act, and are available in Portable Document Format (PDF) on the Department's website at <https://rsa.ed.gov/about/programs/randolph-sheppard-vending-facility-program/decisions-of-arbitration-panels> or by request to the person listed under **FURTHER INFORMATION CONTACT**.

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 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.

Katherine Neas,

Acting Assistant Secretary for the Office of Special Education and Rehabilitative Services.

[FR Doc. 2023-01136 Filed 1-20-23; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF EDUCATION

Applications for New Awards; Office of Indian Education Formula Grants to Local Educational Agencies

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Notice.

SUMMARY: The Department of Education (Department) is issuing a notice inviting applications for new awards for fiscal year (FY) 2023 for Office of Indian Education (OIE) Formula Grants to Local Educational Agencies, Assistance Listing Number 84.060A. This notice relates to the approved information collection under OMB control number 1810-0021.

DATES:

Part I of Electronic Application System for Indian Education (EASIE) Applications Available: February 6, 2023.

Deadline for Transmittal of EASIE Part I: March 10, 2023.

Part II of EASIE Applications Available: April 3, 2023.

Deadline for Transmittal of EASIE Part II: May 12, 2023.

FOR FURTHER INFORMATION CONTACT: For questions about the Formula Grants program, contact Crystal C. Moore, U.S. Department of Education, 400 Maryland Avenue SW, MS 6335, Washington, DC 20202-6335. Telephone: (202) 453-5593. Email: crystal.moore@ed.gov.

For technical questions about the EASIE application and uploading documentation, contact the Partner Support Center (PSC). Telephone: 877-457-3336. Email: OIE.EASIE@ed.gov.

If you are deaf, hard of hearing, or have a speech disability and wish to access telecommunications relay services, please dial 7-1-1.

SUPPLEMENTARY INFORMATION:

Full Text of Announcement

Note: Applicants must meet the deadlines for both EASIE Part I and Part II to be eligible to receive a grant.

Failure to submit the required supplemental documentation, described under *Content and Form of Application Submission* in section IV of this notice, by the EASIE Part I or II deadline, will result in an incomplete application that will not be considered for funding. OIE recommends uploading the documentation at least 4 days prior to each deadline date to ensure that any potential submission issues are resolved prior to the deadlines.

I. Funding Opportunity Description

Purpose of Program: The OIE Formula Grants to Local Educational Agencies (Formula Grants) program provides grants to support local educational agencies (LEAs), Indian Tribes and organizations, and other eligible entities in developing and implementing elementary and secondary school programs that serve Indian students. These funds must be used to support comprehensive programs that are designed to meet the unique cultural, language, and education needs of American Indian and Alaska Native (AI/AN) students and ensure that all students meet challenging State academic standards. The information gathered from the project's final annual performance report (APR) will be utilized to complete OIE's required annual reporting. Specifically, that report covers the Secretary's established performance measures for assessing the effectiveness and efficiency of the Formula Grants program as detailed in this notice.

Integration of Services Authorized: As authorized under section 6116 of the Elementary and Secondary Education Act of 1965, as amended (ESEA), the Secretary will, upon receipt of an acceptable plan for the integration of education and related services, and in cooperation with other relevant Federal agencies, authorize the entity receiving the funds under this program to consolidate all Federal funds that are to be used exclusively for Indian students. Instructions for submitting an

integration of education and related services plan are included in EASIE, which is described under *Application and Submission Information* in section IV of this notice.

Note: Under the Formula Grants program, all applicants are required to develop proposed projects in open consultation, including through public hearings held to provide a full opportunity to understand the program and to offer recommendations regarding the program (section 6114(c)(3)(C) of the ESEA), with parents and teachers of Indian children, representatives of Indian Tribes on Indian lands located within 50 miles of any school that the LEA will serve if such Tribes have any children in such school, Indian organizations (IOs), and, if appropriate, Indian students from secondary schools. LEA applicants are required to develop proposed projects with the participation and written approval of an Indian Parent Committee whose membership includes parents and family members of Indian children in the LEA's schools; representatives of Indian Tribes on Indian lands located within 50 miles of any school that the LEA will serve if such Tribes have any children in such school; teachers in the schools; and, if appropriate, Indian students attending secondary schools of the LEA (ESEA section 6114(c)(4)). The majority of the Indian Parent Committee members must be parents and family members of Indian children (ESEA section 6114(c)(4)(B)).

Definitions: The following definition is from ESEA section 6112(d)(3):

Indian community-based organization (ICBO) means any organization that (1) is composed primarily of Indian parents, family members, and community members, Tribal government education officials, and Tribal members, from a specific community; (2) assists in the social, cultural, and educational development of Indians in such community; (3) meets the unique cultural, language, and academic needs of Indian students; and (4) demonstrates organizational and administrative capacity to manage the grant.

Statutory Hiring Preference: Awards are subject to the provisions of section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5307(b)). To the greatest extent feasible, a grantee is required to—

- (1) Give to Indians preferences and opportunities for training and employment in connection with the administration of the grant; and
- (2) Give to Indian organizations and to Indian-owned economic enterprises, as defined in section 3 of the Indian

Financing Act of 1974 (25 U.S.C. 1452(e)), preference in the award of contracts in connection with the administration of the grant.

For purposes of this requirement, an Indian is a member of any federally recognized Indian Tribe (25 U.S.C. 1452(b)).

Program Authority: 20 U.S.C. 7421, *et seq.*

Applicable Regulations: (a) The Education Department General Administrative Regulations in 34 CFR parts 75, 77, 81, 82, 84, 97, 98, and 99. (b) The Office of Management and Budget Guidelines to Agencies on Governmentwide Debarment and Suspension (Non-procurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474.

II. Award Information

Type of Award: Formula grants.

Estimated Available Funds: \$110,381,000.
Estimated Range of Awards: \$4,000 to \$2,653,404.

Estimated Average Size of Awards: \$86,000.

Estimated Number of Awards: 1,300.

Note: The Department is not bound by any estimates in this notice.

Project Period: 12 months.

III. Eligibility Information

1. Eligible Applicants: The following entities are eligible under this program: certain LEAs, as prescribed by ESEA section 6112(b), including charter schools authorized as LEAs under State law; certain schools funded by the Bureau of Indian Education of the U.S. Department of the Interior (BIE), as prescribed by ESEA section 6113(d); Indian Tribes and IOs under certain conditions, as prescribed by ESEA section 6112(c); and ICBOs, as prescribed by ESEA section 6112(d). Consortia of two or more eligible entities are also eligible under certain circumstances, as prescribed by ESEA section 6112(a)(4).

2. a. Cost Sharing or Matching: This program does not require cost sharing or matching.

b. Supplement-Not-Supplant: ESEA Section 6114(c)(1) requires an LEA to use these grant funds only to supplement the funds that, in the absence of these Federal funds, such agency would make available for services described in this application, and not to supplant such funds.

c. Indirect Cost Rate Information: This program uses a restricted indirect cost rate. For more information regarding restricted indirect costs, or to obtain a negotiated restricted indirect cost rate, please see: www2.ed.gov/about/offices/list/ocfo/intro.html.

d. Administrative Cost Limitation: No more than five percent of funds awarded for a grant under this program may be used for administrative costs. This five-percent limit does not include indirect costs.

IV. Application and Submission Information

1. How to Request an Application Package: You can obtain an entity-specific link for the electronic application for grants under this program by contacting the PSC listed under **FOR FURTHER INFORMATION CONTACT**.

On request to the program contact person [persons] listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document and a copy of the application package in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, or compact disc, or other accessible format.

2. Content and Form of Application Submission: (a) Requirements concerning the content of an application, together with the forms you must submit and technical assistance resources, are located on the EASIE Communities of Practice website at <https://easie.communities.ed.gov/>.

Note: OIE and PSC will provide comprehensive documentation to support applicants and grantees with accessing, navigating, and entering data and submitting their responses into the Office of Management and Budget (OMB) MAX Survey. Prior to the opening of EASIE Part I, this documentation will be announced and posted on the EASIE Communities of Practice website at: <https://easie.communities.ed.gov/>.

User accounts were replaced with an entity-specific link (also known as a token) to access the EASIE application in the OMB MAX Survey. Only individuals that are registered as the current Point of Contact (POC), Project Director (PD), or Authorized Official Representative (AOR) will receive the entity-specific link to access the application for EASIE Part I and II. The AOR can continue to delegate the responsibility of completing the EASIE application in the new OMB MAX Survey to other entity contacts by

sharing their entity-specific link internally. The AOR is ultimately responsible for reviewing and certifying the application. Please contact the PSC with any questions related to this change.

(b) *Supplementary Documentation:* The EASIE application requires submission of the following supplementary documentation in electronic Portable Document Format (PDF):

(1) In EASIE Part I, applicants that are Tribes, IOs, or ICBOs must submit the appropriate "Applying in Lieu of the LEA" agreement form with their application to verify their eligibility no later than March 10, 2023 (which is the closing date of EASIE Part I). Each separate eligibility document is identified by applicant type as either Tribe Applying in Lieu of an LEA Agreement; IO Agreement; or ICBO Agreement. These are available on the EASIE Communities of Practice website (<https://easie.communities.ed.gov/>) as downloadable documents. The details of the verification process, which are necessary to meet the statutory eligibility requirements for Tribes, IOs, and ICBOs, are in the application package.

(2) In EASIE Part I, an applicant that is the lead applicant for a consortium must use the consortium agreement form that is available on the Getting Started page in the EASIE Portal as a downloadable document and upload it to EASIE no later than March 10, 2023 (which is the closing date of EASIE Part I).

(3) In EASIE Part II, for an applicant that is an LEA or a consortium of LEAs, the EASIE application requires the electronic PDF submission of the Indian Parent Committee Approval form no later than May 12, 2023 (which is the deadline for transmittal of EASIE Part II). Applicants are encouraged to begin planning parent committee meetings early to ensure parent committee requirements are met before EASIE Part II closes. The form is available on the EASIE Communities of Practice website at <https://easie.communities.ed.gov/>.

3. *Submission Dates and Times:*
Part I of the Formula Grant EASIE Applications Available: February 6, 2023.

Deadline for Transmittal of EASIE Part I: March 10, 2023, 11:59 p.m., Eastern Time.

Part II of the Formula Grant EASIE Applications Available: April 3, 2023.

Deadline for Transmittal of EASIE Part II: May 12, 2023, 11:59 p.m., Eastern Time.

Submit applications for grants under this program electronically using EASIE

located in the OIE-provided portal. For information (including dates and times) about how to submit your application, please refer to *Other Submission Requirements* in section IV of this notice.

OIE will only consider an application that is compliant with deadline requirements.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact the person listed under **FOR FURTHER INFORMATION CONTACT**. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice.

4. *Intergovernmental Review:* This program is not subject to Executive Order 12372 and the regulations in 34 CFR part 79.

5. *Unique Entity Identification (UEI) Number, Taxpayer Identification Number, and System for Award Management:* To do business with the Department, you must—

a. Have a Unique Entity Identification (UEI) number and a Taxpayer Identification Number (TIN);

b. Register both your UEI number and TIN with the System for Award Management (SAM), the Government's primary registrant database;

c. Provide your UEI number and TIN on your SAM application; and

d. Maintain an active SAM registration with current information while your application is under review by the Department and, if you are awarded a grant, during the project period.

You can obtain a UEI number from [Sam.gov](https://sam.gov/) at the following website: <https://sam.gov/>. A UEI number can be created within one to two business days.

If you are a corporate entity, agency, institution, or organization, you can obtain a TIN from the Internal Revenue Service. If you are an individual, you can obtain a TIN from the Internal Revenue Service or the Social Security Administration. If you need a new TIN, please allow 2 to 5 weeks for your TIN to become active.

The SAM registration process can take approximately 7 business days, but may take upwards of several weeks, depending on the completeness and accuracy of the data you enter in the SAM database. Thus, if you think you might want to apply for Federal financial assistance under a program administered by the Department, please allow sufficient time to obtain and

register your UEI number and TIN. We strongly recommend that you register early.

If you are currently registered with SAM, you may not need to make any changes. However, please make certain that the TIN associated with your UEI number is correct. Also note that you will need to update your registration annually. This may take 3 or more business days.

Information about SAM is available at <https://sam.gov/>. To further assist you with obtaining and registering your UEI number and TIN in SAM or updating your existing SAM account, we have prepared a *SAM.gov* Tip Sheet, which you can find here: <https://www2.ed.gov/about/offices/list/fofo/docs/unique-entity-identifier-transition-fact-sheet.pdf>.

6. *Other Submission Requirements:*
a. *Electronic Submission of Applications.*

EASIE is an electronic application within OMB MAX Survey that users access via an entity-specific link. It is divided into two parts—EASIE Part I and EASIE Part II.

EASIE Part I, student count, provides the appropriate data entry screens to submit verified, aggregated, Indian student count totals based on either the Indian School Equalization Program (ISEP) count or the Indian Student Eligibility Certification Form (ED 506 Form). All applicants must submit a current Indian student count for FY 2023. Applicants must use the ED 506 Form to document eligible Indian students; however, BIE schools may use either the ISEP count or the ED 506 Form count to verify their Indian student counts. Applicants must protect the privacy of all individual data collected and only report aggregated data to the Secretary.

Applicants that verify their Indian student count with the ED 506 Form must document their Indian student counts by completing the following: (1) each year, the applicant must verify there is a valid ED 506 Form for each Indian child included in the count; (2) all ED 506 Forms included in the count must be completed, signed, and dated by the parent or legal guardian, and be on file with the applicant; (3) the applicant must maintain a copy of the student enrollment roster(s) covering the same period of time indicated in the application as the count period; and (4) each Indian child included in the count must be listed on the LEA's enrollment roster(s) and in attendance for at least 1 day during the count period.

BIE schools that enter an ISEP count to verify their Indian student count

must use the most current Indian student count certified by the BIE.

Once an Indian child is determined to be eligible to be counted for such grant award, the applicant must maintain a record of such determination and must not require a new or duplicate determination or form to be made for such child for a subsequent application for a grant under this program.

Applicants must indicate the time span for the project objectives and corresponding activities and services for AI/AN students. Applicants can choose to set objectives that remain the same for up to 4 years to facilitate data collection and enhance long-term planning.

In EASIE Part II, all applicants are required to—

(1) Select the type of program being submitted as either regular formula grant project, formula grant project consolidated with a Title I schoolwide program, or integration of services under ESEA section 6116;

(2) Select the grade levels offered by the LEA or BIE school;

(3) Identify, from a list of possible Department grant programs (e.g., ESEA Title I), the programs in the LEA that are currently coordinated with an OIE formula grant project, or with which the school district plans to coordinate during the project year, in accordance with ESEA section 6114(c)(5), and describe the comprehensive program for AIAN students with those grant programs;

(4) Describe the professional development opportunities that will be provided as part of a comprehensive program to ensure that teachers and other school professionals who are new to the Indian community are prepared to work with Indian children, and that all teachers who will be involved in programs assisted by this grant have been properly trained to carry out such programs, as required by ESEA section 6114(b)(5);

(5) Provide information on how the State assessment data of all Indian students (not just those served) are used and how such information will be disseminated to the Indian community, Indian Parent Committee, and Indian Tribes whose children are served by the LEA. Also describe how assessment data from the previous school year (SY) were used, as required by ESEA section 6114(b)(6);

(6) Indicate when the public hearing was held for SY 2023–24, as required by ESEA section 6114(c)(3)(C);

(7) For an applicant that is an LEA, BIE school, or a consortium of LEAs or BIE schools, describe the process the applicant used to meaningfully

collaborate with Indian Tribes located in the community in a timely, active, and ongoing manner in the development of the comprehensive program and the actions taken as a result of such collaboration (ESEA section 6114(b)(7));

(8) Identify specific project objectives that will further the goal of providing culturally responsive education for AIAN students to meet their academic needs and help them meet State achievement standards (ESEA section 6115(b));

(9) For an LEA that selects a schoolwide application, identify how the use of such funds in a schoolwide program will produce benefits to Indian students that would not be achieved if the funds were not used in a schoolwide program (ESEA section 6115(c)(3));

(10) Submit a program budget and justification based on the estimated grant amount that the EASIE system calculates from the Indian student count submitted in EASIE Part I. After the initial grant amounts are determined, additional funds may become available due to such circumstances as withdrawn applications or a reduction in another applicant's student count. An applicant whose award amount increases or decreases more than \$5,000 must submit a revised budget prior to receiving its grant award but will not need to re-certify its application. If an applicant's award amount increases or decreases by less than \$5,000, a budget update is not required. For an applicant that receives an increased award amount following submission of its original budget, the applicant must allocate the increased amount only to previously approved budget categories;

(11) As required by section 427 of the General Education Provisions Act (GEPA), describe the steps the applicant proposes to take to ensure equitable access to, and participation in, the project or activity to be conducted with such assistance, by addressing the special needs of students, teachers, and other program beneficiaries in order to overcome barriers to equitable participation, including barriers based on gender, race, color, national origin, disability, and age; and

(12) If needed, provide additional comments to assist OIE in the review of the application.

Registration for Formula Grant EASIE: Current, former, and new applicants interested in submitting a Formula Grants application must register for EASIE. Prior to the opening of EASIE Part I, PSC will send a broadcast to prior year grantees and new prospective applicants that have contacted PSC and registered for EASIE. All recipients who receive PSC's broadcast will be asked to

complete their intent to apply for the upcoming application period in the EASIE Portal. All prospective applicants will be provided the opportunity to confirm if any updates to their registration information are necessary, and/or if they would like to completely decline registration. Entities that do not have an active registration or are new applicants should contact the PSC listed under **FOR FURTHER INFORMATION**

CONTACT to register any time before the EASIE Part I application deadline date. Registration *does not* serve as the entity's grant application. For assistance registering, contact the PSC listed under **FOR FURTHER INFORMATION CONTACT**.

Certification for Formula Grant EASIE: The applicant's AOR must be a senior-level official (e.g., Superintendent, Tribal Chief, or similar) of the entity and legally authorized by the applicant organization to approve the application. The AOR must certify EASIE Part I and Part II by the deadline date. Each applicant should identify at least three system users, one for each of the following: Project Director, Authorized Official Representative, and another party (such as a Budget Director) designated to answer questions in the event the project director is unavailable. The certification process ensures that the information in the application is true, reliable, and valid. An applicant that provides a false statement in the application is subject to penalties under the False Claims Act, 18 U.S.C. 1001.

b. Submission of Paper Applications by Mail.

We discourage paper applications, but if electronic submission is not possible (e.g., you do not have access to the internet), you must provide a written statement that you intend to submit a paper application. Send this written statement no later than Tuesday, January 31, 2023.

If you mail your written statement to the Department, it must be postmarked no later than 2 weeks before the application deadline date of EASIE Part I. If you fax your written statement to the Department, we must receive the faxed statement no later than 2 weeks before the application deadline date of EASIE Part I. If you email the written statement, it must be sent no later than 2 weeks before the application deadline date to the person listed under **FOR FURTHER INFORMATION CONTACT**.

Address and mail or fax your statement to: Crystal C. Moore, U.S. Department of Education, Office of Indian Education, 400 Maryland Avenue SW, MS 6335 Washington, DC 20202–6335. FAX: (202) 205–0606.

Your paper application must be submitted in accordance with the mail or hand delivery instructions described in this notice.

You must mail the original and two copies of your application, on or before the application deadline dates for both EASIE Part I and Part II, to the Department at the following address: U.S. Department of Education, Office of Indian Education, Attention: Crystal Moore, 400 Maryland Avenue SW, MS 6335, Washington, DC 20202–6335.

You must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

We will not consider applications postmarked after the application deadline date for EASIE Part I or Part II.

c. *Submission of Paper Applications by Hand Delivery.*

If you are submitting a paper application, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application by hand, on or before the application deadline dates for both EASIE Part I and Part II, to the Department at the following address: U.S. Department of Education, Office of Indian Education, Attention: Crystal Moore, 400 Maryland Avenue SW, MS 6335, Washington, DC 20202–6335.

The program office accepts hand deliveries daily between 8:00 a.m. and 4:30 p.m., Eastern Time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department—

(1) You must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424 the Assistance Listing Number, including suffix letter, of this program—84.060A; and

(2) The program office will mail you a notification of receipt of your grant application. If you do not receive this notification within 15 business days from the application deadline date, you should contact the program office at (202)453–5593.

V. Grant Administration Information

1. *Risk Assessment and Specific Conditions:* Consistent with 2 CFR 200.206, before awarding grants under this program the Department conducts a review of the risks posed by applicants. Under 2 CFR 200.208, the Secretary may impose specific conditions and, under 2 CFR 3474.10, in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of a grant in the *Applicable Regulations* section of this notice and include these and other specific conditions in the Grant Award Notification (GAN). The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* (a) If you apply for a grant under this program, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) You must submit a final annual performance report (APR) using EASIE via the OMB MAX Survey entity-specific link, including financial information, as directed by the Secretary, within 120 days after the close of the grant year. Grantees will be able to access the APR via the EASIE portal link provided to registered entities prior to the system being open to users. Grantees will receive an email from the PSC identifying the date that the APR will be available to grantees and the deadline for its transmission.

4. *Performance Measures:* For the purposes of Department reporting under 34 CFR 75.110, the Secretary has established the following key performance measures for assessing the

effectiveness and efficiency of the Formula Grants program: (1) the percentage of AIAN students in grades four and eight who score at or above the basic level in reading on the National Assessment of Educational Progress (NAEP); (2) the percentage of AIAN students in grades four and eight who score at or above the basic level in mathematics on the NAEP; (3) the percentage of AIAN students in grades three through eight meeting State achievement standards by scoring at or above the proficient level in reading and mathematics on State assessments; (4) the difference between the percentage of AIAN students in grades three through eight at or above the proficient level in reading and mathematics on State assessments and the percentage of all students scoring at those levels; (5) the percentage of AIAN students who graduate from high school as measured by the 4-year adjusted cohort graduation rate; (6) the percentage of grantees providing culturally responsive activities; and (7) the percentage of funds used by grantees prior to award closeout.

Note: In any year in which NAEP or State assessment data are systematically unavailable, reporting of such data will not be required and will not be used for purposes of performance measures.

5. *Integrity and Performance System:* If you receive an award under this grant program that over the course of the project period may exceed the simplified acquisition threshold (currently \$250,000), under 2 CFR 200.206(a)(2) we must make a judgment about your integrity, business ethics, and record of performance under Federal awards—that is, the risk posed by you as an applicant—before we make an award. In doing so, we must consider any information about you that is in the integrity and performance system (currently referred to as the Federal Awardee Performance and Integrity Information System (FAPIIS)), accessible through SAM. You may review and comment on any information about yourself that a Federal agency previously entered and that is currently in FAPIIS.

Please note that, if the total value of your currently active grants, cooperative agreements, and procurement contracts from the Federal Government exceeds \$10,000,000, the requirements in 2 CFR part 200, Appendix XII, require you to report certain integrity information to FAPIIS semiannually. Please review the requirements in 2 CFR part 200, Appendix XII, if this grant plus all the other Federal funds you receive exceed \$10,000,000.

VI. Other Information

Accessible Format: On request to the PSC listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document and a copy of the application package in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, or compact disc, or other accessible format.

Electronic Access to This Document: The official version of this document is 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 other documents of this Department published in the **Federal Register**, in text or 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.

James F. Lane,

Senior Advisor, Office of the Secretary delegated the authority to perform the functions and duties of the Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 2023-01171 Filed 1-20-23; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF EDUCATION

[Docket No. ED-2023-SCC-0019]

Agency Information Collection Activities; Comment Request; National Teacher and Principal Survey of 2023–2024 (NTPS 2023–24) Data Collection

AGENCY: National Center for Education Statistics (NCES), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Department is proposing a revision of a currently approved information collection request (ICR).

DATES: Interested persons are invited to submit comments on or before March 24, 2023.

ADDRESSES: To access and review all the documents related to the information

collection listed in this notice, please use <http://www.regulations.gov> by searching the Docket ID number ED-2023-SCC-0019. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at <http://www.regulations.gov> by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the www.regulations.gov site is not available to the public for any reason, the Department will temporarily accept comments at ICDocketMgr@ed.gov. Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. Please note that comments submitted after the comment period will not be accepted. Written requests for information or comments submitted by postal mail or delivery should be addressed to the Manager of the Strategic Collections and Clearance Governance and Strategy Division, U.S. Department of Education, 400 Maryland Ave. SW, LBJ, Room 6W203, Washington, DC 20202–8240.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Carrie Clarady, 202–245–6347.

SUPPLEMENTARY INFORMATION: The Department, in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. The Department is soliciting comments on the proposed information collection request (ICR) that is described below. The Department is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in

response to this notice will be considered public records.

Title of Collection: National Teacher and Principal Survey of 2023–2024 (NTPS 2023–24) Data Collection.

OMB Control Number: 1850–0598.

Type of Review: A revision of a currently approved ICR.

Respondents/Affected Public: Individuals and Households.

Total Estimated Number of Annual Responses: 98,148.

Total Estimated Number of Annual Burden Hours: 45,269.

Abstract: The National Teacher and Principal Survey (NTPS), conducted every two or three years by the National Center for Education Statistics (NCES), is a system of related questionnaires that provides descriptive data on the context of elementary and secondary education. Redesigned from the Schools and Staffing Survey (SASS) with a focus on flexibility, timeliness, and integration with other ED data, the NTPS system allows for school, principal, and teacher characteristics to be analyzed in relation to one another.

NTPS is an in-depth, nationally representative survey of first through twelfth grade public and private school teachers, principals, and schools. Kindergarten teachers in schools with at least a first grade are also surveyed. NTPS utilizes core content and a series of rotating modules to allow timely collection of important education trends as well as trend analysis. Topics covered include characteristics of teachers, principals, schools, teacher training opportunities, retention, retirement, hiring, and shortages. NTPS also functions as the base-year for the longitudinal studies Teacher Follow-up Survey (TFS) and Principal Follow-up Survey (PFS).

A previous request (OMB #1850–0598 v.41) to conduct the NTPS 2023–24 preliminary activities, namely special district recruitment, recruitment of endorsers, and Screener Survey for the NTPS and the NTPS follow-up surveys, was approved in December 2022. This request for public comment and OMB review is for the NTPS 2023–24 Main Study final procedures and materials, including all contact materials and survey questionnaires. Public comment and OMB approval for the follow-up surveys to NTPS 2023–24—the Teacher Follow-up Survey (TFS) and the Principal Follow-up Survey (PFS)—will be requested in an additional package in winter 2023–24.

Dated: January 18, 2023.

Stephanie Valentine,

PRA Coordinator, Strategic Collections and Clearance, Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2023-01157 Filed 1-20-23; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF EDUCATION

[Docket No.: ED-2023-SCC-0015]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Application Forms and Instructions for the Fulbright-Hays Training Grants: Doctoral Dissertation Research Abroad (CFDA Number 84.022A) and Faculty Research Abroad (CFDA Number 84.019A)

AGENCY: Office of Postsecondary Education (OPE), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Department is proposing a revision of a currently approved information collection request (ICR).

DATES: Interested persons are invited to submit comments on or before February 22, 2023.

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 Pamela Maimer, (202) 453-6891.

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: Application Forms and Instructions for the Fulbright-Hays Training Grants: Doctoral Dissertation Research Abroad (CFDA Number 84.022A) and Faculty Research Abroad (CFDA Number 84.019A).

OMB Control Number: 1840-0005.

Type of Review: Revision of a currently approved ICR.

Respondents/Affected Public: Private sector.

Total Estimated Number of Annual Responses: 480.

Total Estimated Number of Annual Burden Hours: 11,500.

Abstract: The purpose of section 102(b)(6) of the Mutual Educational and Cultural Exchange Act of 1961 (Fulbright-Hays Act) is to promote and develop modern foreign language training and area studies throughout the educational structure of the United States. To help accomplish this objective, fellowships are awarded through US institutions of higher education to American faculty and dissertation students enabling them to conduct overseas research and enhance their foreign language proficiency.

Under the Fulbright-Hays Doctoral Dissertation Research Abroad (DDRA) and the Fulbright-Hays Faculty Research Abroad (FRA) programs, individual scholars apply through eligible institutions for an institutional grant to support the research fellowship. These institutions administer the program in cooperation with the US Department of Education (US/ED) as provided under the authority of sections 102(b)(6) and 104(e)(1) of the Mutual Educational and Cultural Exchange Act of 1961, 34 CFR part 662, and the Policy Statements of the J. William Fulbright Foreign Scholarship Board (FSB).

This information collection request is a revision based on a program change due to agency discretion. It is adding to the currently approved respondents and burden hours the number of respondents and burden hours for the FRA program, which has been inactive since 2010. DDRA and FRA are two closely related programs funded under the Fulbright-Hays Act and their

applications are cleared under the same OMB number: 1840-0005. In FY 2011 funding for these programs was significantly reduced and we could no longer afford to fund the FRA program, so we retired it. It has only been recently that we have been able to reactivate the program and run competitions again. The application for FRA is still cleared under OMB number 1840-0005 with the DDRA application, and we are revising the information collection to include the FRA program.

This collection is being submitted under the Streamlined Clearance Process for Discretionary Grant Information Collections (1894-0001). Therefore, the 30-day public comment period notice will be the only public comment notice published for this information collection.

Dated: January 17, 2023.

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. 2023-01103 Filed 1-20-23; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER23-842-000]

Big Plain Solar, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Big Plain Solar, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is February 6, 2023.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at <http://www.ferc.gov>. To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (<http://www.ferc.gov>) using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID-19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at FERCOnlineSupport@ferc.gov or call toll-free, (886) 208-3676 or TTY, (202) 502-8659.

Dated: January 17, 2023.

Debbie-Anne A. Reese,
Deputy Secretary.

[FR Doc. 2023-01176 Filed 1-20-23; 8:45 am]
BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER23-843-000]

Oak Trail Solar, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Oak Trail Solar, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that

such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is February 6, 2023.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at <http://www.ferc.gov>. To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (<http://www.ferc.gov>) using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID-19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at FERCOnlineSupport@ferc.gov or call toll-free, (886) 208-3676 or TTY, (202) 502-8659.

Dated: January 17, 2023.

Debbie-Anne A. Reese,
Deputy Secretary.

[FR Doc. 2023-01175 Filed 1-20-23; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP23-357-000.

Applicants: LA Storage, LLC.

Description: § 4(d) Rate Filing: Filing of Negotiated Rate, Conforming IW Agreement 1.13.23 to be effective 1/16/2023.

Filed Date: 1/13/23.

Accession Number: 20230113-5148.

Comment Date: 5 p.m. ET 1/25/23.

Docket Numbers: RP23-358-000.

Applicants: Spire STL Pipeline LLC.

Description: Compliance filing: Spire STL Cost and Revenue Study re CP17-40-000 to be effective N/A.

Filed Date: 1/13/23.

Accession Number: 20230113-5249.

Comment Date: 5 p.m. ET 1/25/23.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

The filings are accessible in the Commission's eLibrary system (<https://elibrary.ferc.gov/idmws/search/fercgensearch.asp>) by querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: <http://www.ferc.gov/docs-filing/efiling/filing-req.pdf>. For other information, call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Dated: January 17, 2023.

Debbie-Anne A. Reese,
Deputy Secretary.

[FR Doc. 2023-01177 Filed 1-20-23; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission****Combined Notice of Filings #1**

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC23–52–000.

Applicants: Saddleback Ridge Wind, LLC.

Description: Application for Authorization Under Section 203 of the Federal Power Act of Saddleback Ridge Wind, LLC.

Filed Date: 1/13/23.

Accession Number: 20230113–5294.

Comment Date: 5 p.m. ET 2/3/23.

Docket Numbers: EC23–53–000.

Applicants: GC PGR AssetCo, LLC, Allora Solar, LLC, Cabin Creek Solar, LLC, Eastover Solar LLC, Gunsight Solar, LLC, Phobos Solar, LLC, PGR 2021 Lessee 11, LLC, PGR 2021 Lessee 12, LLC, PGR 2021 Lessee 15, LLC, PGR 2021 Lessee 17, LLC, PGR 2021 Lessee 19, LLC.

Description: Joint Application for Authorization Under Section 203 of the Federal Power Act of GC PGR AssetCo, LLC, et al.

Filed Date: 1/17/23.

Accession Number: 20230117–5223.

Comment Date: 5 p.m. ET 2/7/23.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER21–2462–000.

Applicants: Sempra Gas & Power Marketing, LLC.

Description: Refund Report: Sempra Gas & Power Marketing WECC Refund Report to be effective N/A.

Filed Date: 1/17/23.

Accession Number: 20230117–5203.

Comment Date: 5 p.m. ET 2/7/23.

Docket Numbers: ER22–2867–002.

Applicants: Bluegrass Solar, LLC.

Description: Tariff Amendment: Response to Deficiency Letter in Docket ER22–2867 to be effective 10/1/2022.

Filed Date: 1/17/23.

Accession Number: 20230117–5002.

Comment Date: 5 p.m. ET 2/7/23.

Docket Numbers: ER23–845–000.

Applicants: Ohio Power Company, AEP Ohio Transmission Company, Inc., PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Ohio Power Company submits tariff filing per 35.13(a)(2)(iii): AEPSC submits one Facilities Agreement re: ILDSA, SA No. 1336 to be effective 3/19/2023.

Filed Date: 1/17/23.

Accession Number: 20230117–5025.

Comment Date: 5 p.m. ET 2/7/23.

Docket Numbers: ER23–846–000.

Applicants: PacifiCorp.

Description: § 205(d) Rate Filing: Constellation FKA Exelon NITSA (OR DA) SA 943 Rev 4 to be effective 1/1/2023.

Filed Date: 1/17/23.

Accession Number: 20230117–5084.

Comment Date: 5 p.m. ET 2/7/23.

Docket Numbers: ER23–847–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Revised ISA, Service Agreement No. 3753; Queue No. AF1–051 to be effective 12/15/2022.

Filed Date: 1/17/23.

Accession Number: 20230117–5087.

Comment Date: 5 p.m. ET 2/7/23.

Docket Numbers: ER23–848–000.

Applicants: American Electric Power Service Corporation, Ohio Power Company, AEP Ohio Transmission Company, Inc., PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: American Electric Power Service Corporation submits tariff filing per 35.13(a)(2)(iii): AEPSC submits one Facilities Agreement re: ILDSA, SA No. 1336 to be effective 3/19/2023.

Filed Date: 1/17/23.

Accession Number: 20230117–5088.

Comment Date: 5 p.m. ET 2/7/23.

Docket Numbers: ER23–849–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2023–01–17_SA 3353 Termination of METC-River Fork Solar E&P (J806) to be effective 1/18/2023.

Filed Date: 1/17/23.

Accession Number: 20230117–5095.

Comment Date: 5 p.m. ET 2/7/23.

Docket Numbers: ER23–850–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Original ISA, Service Agreement No. 6753; Queue No. AD2–022/AD2–023 to be effective 12/15/2022.

Filed Date: 1/17/23.

Accession Number: 20230117–5100.

Comment Date: 5 p.m. ET 2/7/23.

Docket Numbers: ER23–851–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Original ISA, Service Agreement No. 6745; Queue No. AC2–015 to be effective 12/15/2022.

Filed Date: 1/17/23.

Accession Number: 20230117–5108.

Comment Date: 5 p.m. ET 2/7/23.

Docket Numbers: ER23–852–000.

Applicants: American Electric Power Service Corporation, PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing:

American Electric Power Service Corporation submits tariff filing per 35.13(a)(2)(iii): AEP submits revisions to PJM OATT to update Depreciation Rates to be effective 3/20/2023.

Filed Date: 1/17/23.

Accession Number: 20230117–5111.

Comment Date: 5 p.m. ET 2/7/23.

Docket Numbers: ER23–853–000.

Applicants: Saint Energy Storage II, LLC.

Description: Baseline eTariff Filing: Saint Energy Storage II, LLC Application for Market-Based Rate Authorization to be effective 3/19/2023.

Filed Date: 1/17/23.

Accession Number: 20230117–5134.

Comment Date: 5 p.m. ET 2/7/23.

Docket Numbers: ER23–854–000.

Applicants: Storey Energy Center, LLC.

Description: Baseline eTariff Filing: Storey Energy Center, LLC Application for Market-Based Rate Authorization to be effective 3/15/2023.

Filed Date: 1/17/23.

Accession Number: 20230117–5135.

Comment Date: 5 p.m. ET 2/7/23.

Docket Numbers: ER23–855–000.

Applicants: American Electric Power Service Corporation, Ohio Power Company, AEP Ohio Transmission Company, Inc., PJM Interconnection, L.L.C.

Description: Compliance filing: American Electric Power Service Corporation submits tariff filing per 35: Compliance Filing of AEPSC on behalf of Ohio Power & AEP Ohio to be effective 2/24/2022.

Filed Date: 1/17/23.

Accession Number: 20230117–5138.

Comment Date: 5 p.m. ET 2/7/23.

Docket Numbers: ER23–856–000.

Applicants: Pacific Gas and Electric Company.

Description: § 205(d) Rate Filing: CCSF missed Service Agreements (WDT SA 275) to be effective 3/19/2023.

Filed Date: 1/17/23.

Accession Number: 20230117–5140.

Comment Date: 5 p.m. ET 2/7/23.

Docket Numbers: ER23–857–000.

Applicants: FirstEnergy Service Company, Monongahela Power Company.

Description: Compliance filing: FirstEnergy Service Company submits tariff filing per 35: Compliance Filing re Waiver of Affiliate Rules of Monongahela Power to be effective 9/23/2022.

Filed Date: 1/17/23.

Accession Number: 20230117–5179.

Comment Date: 5 p.m. ET 2/7/23.

Docket Numbers: ER23–858–000.

Applicants: FirstEnergy Service Company, Allegheny Energy Supply Company, LLC.

Description: Compliance filing: FirstEnergy Service Company submits tariff filing per 35: Compliance Filing re Waiver of Affiliate Rules of AE Supply to be effective 9/23/2022.

Filed Date: 1/17/23.

Accession Number: 20230117-5181.

Comment Date: 5 p.m. ET 2/7/23.

Docket Numbers: ER23-860-000.

Applicants: North Country Wind LLC.

Description: North Country Wind LLC, submits a Petition for Limited, Prospective Tariff Waiver with Expedited Action of the requirement in Section 25.6.2.3.1 of Attachment S of the NYISO OATT.

Filed Date: 1/13/23.

Accession Number: 20230113-5356.

Comment Date: 5 p.m. ET 1/20/23.

The filings are accessible in the Commission's eLibrary system (<https://elibrary.ferc.gov/idmws/search/fercgensearch.asp>) by querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: <http://www.ferc.gov/docs-filing/efiling/filing-req.pdf>. For other information, call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Dated: January 17, 2023.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2023-01174 Filed 1-20-23; 8:45 am]

BILLING CODE 6717-01-P

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Sunshine Act Notice

TIME AND DATE: Tuesday, January 31, 2023, 10:00 a.m. Eastern Time.

PLACE: The EEOC building is undergoing water remediation efforts and the Agency will need to change the meeting to a virtual meeting by a live streamed videoconference, with an option for listen-only audio dial-in by telephone. The public may observe the videoconference or connect to the audio-only dial-in by following the

instructions that will be posted on www.eeoc.gov. Closed captioning and ASL services will be available.

MATTERS TO BE CONSIDERED: The following item will be considered at the meeting:

Navigating Employment Discrimination in AI and Automated Systems: A New Civil Rights Frontier

Note: In accordance with the Sunshine Act, the public will be able to observe the Commission's deliberations and voting. (In addition to publishing notices on EEOC Commission meetings in the **Federal Register**, the Commission also provides information about Commission meetings on its website, www.eeoc.gov, and provides a recorded announcement a week in advance on future Commission meetings.)

Please telephone (202) 921-2750, or email commissionmeetingcomments@eeoc.gov at any time for information on this meeting.

CONTACT PERSON FOR MORE INFORMATION: Ray Windmiller, Executive Officer, (202) 921-2705.

Dated: January 19, 2023.

Raymond D. Windmiller,

Executive Officer, Executive Secretariat.

[FR Doc. 2023-01395 Filed 1-19-23; 4:15 pm]

BILLING CODE 6570-01-P

FEDERAL MARITIME COMMISSION

Sunshine Act Meetings; Correction

AGENCY: Federal Maritime Commission.

ACTION: Notice; correction.

SUMMARY: The Federal Maritime Commission published a document in the **Federal Register** of January 19, 2023, concerning the Sunshine Act Meetings for our January 25, 2023, Commission Meeting. The document contained an incorrect sentence under the status section.

FOR FURTHER INFORMATION CONTACT: William Cody, 202-523-5725.

SUPPLEMENTARY INFORMATION:

Correction

In the **Federal Register** of January 19, 2023, in FR Doc. 2023-01086, on page 3413, the last sentence of the "Status" section reads: "*Pre-registered attendees will be notified of the required health and safety protocols before the meeting and no later than Tuesday, January 25, 2023.*" Please delete this line in its entirety. There is no replacement sentence.

Dated: January 19, 2023.

William Cody,

Secretary.

[FR Doc. 2023-01366 Filed 1-19-23; 4:15 pm]

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 February 6, 2023.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690-1414:

1. *The WRW FSB Trust, the EVW 1937 FSB Trust, the EVW FSB Trust, and William R. Wirtz as trustee of the aforementioned trusts, all of Chicago, Illinois; to join the William R. Wirtz Family Control Group, a group acting in concert, to retain voting shares of First Security Bancorp, Inc., and thereby indirectly retain voting shares of First Security Trust and Savings Bank, both of Elmwood Park, Illinois.*

Board of Governors of the Federal Reserve System.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2023-01108 Filed 1-20-23; 8:45 am]

BILLING CODE P

FEDERAL RESERVE SYSTEM**Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company**

The notificants listed below have applied under the Change in Bank Control Act (Act) (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the applications are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at <https://www.federalreserve.gov/foia/request.htm>. Interested persons may express their views in writing on the standards enumerated in paragraph 7 of the Act.

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551-0001, not later than February 7, 2023.

A. Federal Reserve Bank of Dallas (Karen Smith, Director, Mergers & Acquisitions) 2200 N Pearl St., Dallas, TX 75201-2272 or electronically to Comments.applications@dal.frb.org:

1. *The Dakri Grandchildren's 2022 GST Trust for Haaris A. Dakri, the Dakri Grandchildren's 2022 GST Trust for Minor Child 1, the Dakri Grandchildren's 2022 GST Trust for Minor Child 2, and Asif M. Dakri and Faizel M. Dakri as co-trustees of the aforementioned trusts, all of Houston, Texas*; to join the Dakri Family Control Group, a group acting in concert, to acquire voting shares of Wallis Bancshares, Inc., and thereby indirectly acquire voting shares of Wallis Bank, both of Wallis, Texas.

Board of Governors of the Federal Reserve System.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2023-01197 Filed 1-20-23; 8:45 am]

BILLING CODE P

FEDERAL TRADE COMMISSION

[File No. 222 3140]

Instant Brands LLC; Analysis of Proposed Consent Order To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement; request for comment.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices. The attached Analysis of Proposed Consent Order to Aid Public Comment describes both the allegations in the draft complaint and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before February 22, 2023.

ADDRESSES: Interested parties may file comments online or on paper by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Please write “Instant Brands LLC; File No. 222 3140” on your comment and file your comment online at <https://www.regulations.gov> by following the instructions on the web-based form. If you prefer to file your comment on paper, please mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC-5610 (Annex D), Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Julia Ensor (202-326-2377), Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 15 U.S.C. 46(f), and FTC Rule 2.34, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of 30 days. The following Analysis to Aid Public Comment describes the terms of the consent agreement and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained at <https://www.ftc.gov/news-events/commission-actions>.

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before February 22, 2023. Write “Instant Brands LLC; File No. 222 3140” on your

comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the <https://www.regulations.gov> website.

Because of heightened security screening, postal mail addressed to the Commission will be subject to delay. We strongly encourage you to submit your comments online through the <https://www.regulations.gov> website.

If you prefer to file your comment on paper, write “Instant Brands LLC; File No. 222 3140” on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC-5610 (Annex D), Washington, DC 20580.

Because your comment will be placed on the publicly accessible website at <https://www.regulations.gov>, you are solely responsible for making sure your comment does not include any sensitive or confidential information. In particular, your comment should not include sensitive personal information, such as your or anyone else's Social Security number; date of birth; driver's license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for making sure your comment does not include sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any “trade secret or any commercial or financial information which . . . is privileged or confidential”—as provided by Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2)—including competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled “Confidential,” and must comply with FTC Rule 4.9(c). In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. See FTC Rule 4.9(c). Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment

has been posted on the <https://www.regulations.gov> website—as legally required by FTC Rule 4.9(b)—we cannot redact or remove your comment from that website, unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule 4.9(c), and the General Counsel grants that request.

Visit the FTC website at <http://www.ftc.gov> to read this document and the news release describing the proposed settlement. The FTC Act and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding, as appropriate. The Commission will consider all timely and responsive public comments it receives on or before February 22, 2023. For information on the Commission's privacy policy, including routine uses permitted by the Privacy Act, see <https://www.ftc.gov/site-information/privacy-policy>.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission ("FTC" or "Commission") has accepted, subject to final approval, an agreement containing a consent order from Instant Brands LLC ("Respondent"). The proposed consent order has been placed on the public record for 30 days for receipt of comments from interested persons. Comments received during this period will become part of the public record. After 30 days, the Commission will again review the agreement and the comments received and decide whether it should withdraw from the agreement or make final the agreement's proposed order.

This matter involves Respondent's advertising of Pyrex measuring cup sets as "Made in USA." According to the FTC's complaint, between May 2021 and March 2022, Respondent advertised certain Pyrex measuring cup sets on Amazon.com as "Made in USA" or "American as Apple Pie," even though, in numerous instances, those measuring cup sets were wholly imported from China. Based on the foregoing, the complaint alleges Respondent violated section 5 of the FTC Act, 15 U.S.C. 45(a).

The proposed consent order contains provisions designed to prevent Respondent from engaging in similar acts and practices in the future. Consistent with the FTC's Made in USA Labeling Rule, 16 CFR part 323, and its Enforcement Policy Statement on U.S.-Origin Claims, Part I prohibits Respondent from making U.S.-origin claims for its products unless: (1) the final assembly or processing of the

product occurs in the United States, all significant processing that goes into the product occurs in the United States, and all or virtually all ingredients or components of the product are made and sourced in the United States; (2) a clear and conspicuous qualification appears immediately adjacent to the representation that accurately conveys the extent to which the product contains foreign parts, ingredients or components, and/or processing; or (3) for a claim that a product is assembled in the United States, the product is last substantially transformed in the United States, the product's principal assembly takes place in the United States, and United States assembly operations are substantial.

Part II prohibits Respondent from making any representation about the country of origin of a product or service, unless the representation is not misleading, and Respondent has a reasonable basis substantiating it. Parts III and IV are monetary provisions. Part III imposes a judgment of \$129,416. Part IV includes additional monetary provisions relating to collections.

Parts V through VIII are reporting and compliance provisions. Part V requires Respondent to acknowledge receipt of the order, to provide a copy of the order to certain current and future principals, officers, directors, and employees, and to obtain an acknowledgement from each such person that they have received a copy of the order. Part VI requires Respondent to file a compliance report within one year after the order becomes final and to notify the Commission within 14 days of certain changes that would affect compliance with the order. Part VII requires Respondent to maintain certain records, including records necessary to demonstrate compliance with the order. Part VIII requires Respondent to submit additional compliance reports when requested by the Commission and to permit the Commission or its representatives to interview Respondent's personnel.

Finally, Part IX is a "sunset" provision, terminating the order after twenty (20) years, with certain exceptions.

The purpose of this analysis is to aid public comment on the proposed order. It is not intended to constitute an official interpretation of the proposed order or to modify its terms in any way.

By direction of the Commission.

Joel Christie,

Acting Secretary.

[FR Doc. 2023-01187 Filed 1-20-23; 8:45 am]

BILLING CODE 6750-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day-23-0995]

Agency Forms Undergoing Paperwork Reduction Act Review

In accordance with the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention (CDC) has submitted the information collection request titled "National Network of Sexually Transmitted Diseases Clinical Prevention Training Centers" to the Office of Management and Budget (OMB) for review and approval. CDC previously published a "Proposed Data Collection Submitted for Public Comment and Recommendations" notice on August 22, 2022 to obtain comments from the public and affected agencies. CDC received two comments. This notice serves to allow an additional 30 days for public and affected agency comments.

CDC will accept all comments for this proposed information collection project. The Office of Management and Budget is particularly interested in comments that:

(a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(c) Enhance the quality, utility, and clarity of the information to be collected;

(d) Minimize the burden of the collection of information on those who are to respond, including, through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses; and

(e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639-7570. Comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under 30-day Review—Open

for Public Comments” or by using the search function. Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395–5806. Provide written comments within 30 days of notice publication.

Proposed Project

National Network of Sexually Transmitted Diseases Clinical Prevention Training Centers (OMB No. 0920–0995, Expiration 06/30/2023)—Extension—National Center for HIV/AIDS, Viral Hepatitis, STD, and TB Prevention (NCHHSTP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The Centers for Disease Control and Prevention (CDC), Division of STD Prevention requests an Extension and three-year approval of the currently approved information collection request that comprises the NNPTC Abbreviated Health Professional Application for Training (NNPTC, abbreviated HPAT). This Extension will allow the HPAT to continue to serve as the official training application form used for training activities conducted by the Sexually Transmitted Disease (STD) Prevention Training Centers’ (PTCs) grantees funded by the CDC.

PTCs are funded by CDC/Division of STD Prevention (DSTDP) to provide training and capacity-building that includes information, training, technical assistance, and technology transfer. The PTCs offer classroom and experiential training, web-based training, clinical

consultation, and capacity building assistance to maintain and enhance the capacity of health care professionals to control and prevent STDs and HIV. HPAT is used to monitor and evaluate performance and reach of grantees that offer STD and HIV prevention training, training assistance, and capacity building assistance to physicians, nurses, disease intervention specialists, health educators, etc. During the previously approved three-year period, data was collected to monitor and evaluate the performance of the NNPTC grantees and the NNPTC program. This data provided the NNPTC with necessary information to improve program processes and operations in order to improve the quality of STD prevention and treatment.

The 4,500 respondents (who will engage in a total of 11,680 responses) represent an average of the number of health professionals trained by PTC grantees during 2015. The evaluation instruments collect data on the impact of trainings by the NNPTC. This data collection is necessary to assess and evaluate the performance of the grantees in delivering training and to standardize training registration processes across the PTCs. HPAT allows CDC grantees to use a single instrument when collecting demographic data from its training and capacity building participants, regarding their: (1) occupations, professions, and functional roles; (2) principal employment settings; (3) location of their work settings; and (4) programmatic and population foci of their work. The HPAT takes approximately three minutes to complete. This data collection provides CDC with information to determine

whether the training grantees are reaching their target audiences in terms of provider type, the types of organizations in which participants work, the focus of their work and the population groups and geographic areas served.

The evaluation instruments are used to assess training and capacity-building outcomes (knowledge, confidence, intention to use information, actual changes made as a result of training) immediately after, and again 90 days after training events. The evaluation instruments vary based on the type of training offered and take between approximately 10 minutes to complete (for intensive multi-day trainings) to three minutes to complete (for short didactic or webinar sessions). Most information is collected electronically through a centralized learning management system (LMS) managed and operated by the NNPTC. Respondents may complete instruments online using a computer, tablet, or smartphone. In rare instances (less than 5% of courses), instruments are completed on paper at the site of the training and data are entered into the electronic system by PTC staff.

The CDC’s Funding Opportunity Announcement PS 20–2004, National Network of Sexually Transmitted Diseases Clinical Prevention Training Centers (NNPTC) requires the collection of national demographic information on grantees’ trainees and national evaluation outcomes.

CDC requests OMB approval for an estimated 453 annual burden hours. There are no costs to respondents other than their time to participate.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Healthcare Professionals	NNPTC Abbreviated Health Professional Application for Training (NNPTC HPAT).	4,500	1	3/60
Healthcare Professionals	Immediate Post-Course email invitation	4,500	1	1/60
Healthcare Professionals	3 Month Long-Term email invitation	660	1	1/60
Healthcare Professionals	Standard Post-Course Evaluation	1,200	1	3/60
Healthcare Professionals	Standard Long-Term Evaluation	400	1	3/60
Healthcare Professionals	Intensive Complete Post-Course Evaluation	300	1	10/60
Healthcare Professionals	Intensive Complete Long-Term Evaluation	120	1	6/60

Jeffrey M. Zirger,

Lead, Information Collection Review Office,
Office of Scientific Integrity, Office of Science,
Centers for Disease Control and Prevention.

[FR Doc. 2023–01159 Filed 1–20–23; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES**Centers for Disease Control and Prevention****[30Day–23–0822]****Agency Forms Undergoing Paperwork Reduction Act Review**

In accordance with the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention (CDC) has submitted the information collection request titled “The National Intimate Partner and Sexual Violence Survey (NISVS)” to the Office of Management and Budget (OMB) for review and approval. CDC previously published a “Proposed Data Collection Submitted for Public Comment and Recommendations” notice on March 7, 2022, to obtain comments from the public and affected agencies. CDC received one comment related to the previous notice. This notice serves to allow an additional 30 days for public and affected agency comments.

CDC will accept all comments for this proposed information collection project. The Office of Management and Budget is particularly interested in comments that:

- (a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- (b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- (c) Enhance the quality, utility, and clarity of the information to be collected;
- (d) Minimize the burden of the collection of information on those who are to respond, including, through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses; and
- (e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570. Comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function. Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395–5806. Provide written comments within 30 days of notice publication.

Proposed Project

The National Intimate Partner and Sexual Violence Survey (NISVS) (OMB Control No. 0920–0822, Exp. 03/31/2023)—Revision—National Center for Injury Prevention and Control (NCIPC), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

This is a revision request for the currently approved National Intimate Partner and Sexual Violence Survey (NISVS, OMB# 0920–0822). Sexual violence, intimate partner violence, and stalking are significant public health issues that impact the health and well-being of women and men across the United States. An extensive field of research has demonstrated that sexual violence, intimate partner violence, and stalking can have serious long-term health consequences and significant social and public health costs. Sexual violence is a major public health problem; 1 in 3 women and 1 in 4 men experienced sexual violence involving physical contact during their lifetimes. Nearly 1 in 5 women and 1 in 38 men have experienced completed or attempted rape. Sexual violence starts early; 1 in 3 female and 1 in 4 male rape victims experienced it for the first time between 11–17 years old.

In 2010, the National Intimate Partner and Sexual Violence Surveillance System (NISVS) reported that

approximately 6.9 million women and 5.6 million men experienced rape, physical violence and/or stalking by an intimate partner within the last year. The health care costs of sexual violence exceed \$5.8 billion each year, nearly \$3.9 billion of which is for direct medical and mental health care services. To address this important public health problem, CDC implemented, beginning in 2010, the National Intimate Partner and Sexual Violence Surveillance System that produces national and state level estimates of Intimate Partner Violence, Sexual Violence and stalking on an annual basis.

This Revision request describes the redesign of the NISVS and the approach for collecting NISVS data. More specifically, this Revision request is to use the restructured methodology based on recommendations resulting from experimental studies conducted in 2018–2021 and approved by OMB 6/19/2019, 3/20/2020, and 9/2/2021. This Revision request incorporates methodological design changes to improve response rate, reduce cost, and reduce non-response bias. Additionally, survey questions and their formatting were revised to improve clarity and reduce respondent burden or to update content with more recent concerns (*e.g.*, stalking technology, technology-facilitated sexual violence). The survey question revisions were modified by results from cognitive testing conducted in 2021–2022. Data are analyzed using appropriate statistical software to account for the complexity of the survey design to compute weighted counts, percentages, and confidence intervals using national and state-level data.

NISVS is a surveillance system used to monitor the magnitude of sexual violence, stalking, and Intimate Partner Violence victimization among adults in the U.S. Data are used by the federal government, states, partner organizations, and stakeholders to inform prevention programs and policies related to sexual violence, stalking, and Intimate Partner Violence. OMB approval is requested for three years. The total estimated annualized burden hours are 17,949. There are no costs to respondents other than their time to participate.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Individuals and Households	Advance Letter	134,933	1	1/60
	Screeners	48,667	1	5/60
	Questionnaire, web	26,667	1	25/60
	Questionnaire, phone	800	1	40/60

Jeffrey M. Zirger,

*Lead, Information Collection Review Office,
Office of Scientific Integrity, Office of Science,
Centers for Disease Control and Prevention.*

[FR Doc. 2023-01167 Filed 1-20-23; 8:45 am]

BILLING CODE 4163-18-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day-23-1283]

Agency Forms Undergoing Paperwork Reduction Act Review

In accordance with the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention (CDC) has submitted the information collection request titled “Monitoring and Reporting for the Overdose Data to Action Cooperative Agreement” to the Office of Management and Budget (OMB) for review and approval. CDC previously published a “Proposed Data Collection Submitted for Public Comment and Recommendations” notice on September 7, 2022, to obtain comments from the public and affected agencies. CDC received one comment related to the previous notice. This notice serves to allow an additional 30 days for public and affected agency comments.

CDC will accept all comments for this proposed information collection project. The Office of Management and Budget is particularly interested in comments that:

(a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(c) Enhance the quality, utility, and clarity of the information to be collected;

(d) Minimize the burden of the collection of information on those who are to respond, including, through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses; and

(e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639-7570. Comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function. Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395-5806. Provide written comments within 30 days of notice publication.

Proposed Project

Monitoring and Reporting for the Overdose Data to Action Cooperative Agreement (OMB Control No. 0920-1283, Exp. 01/31/2023)—Revision—National Center for Injury Prevention and Control (NCIPC), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

This is a Revision request for the currently approved Monitoring and reporting for the Overdose Data to Action Cooperative Agreement (OMB Control No. 0920-1283). In 2020, a total of 91,799 drug overdose deaths occurred in the United States; the age-adjusted rate in 2020 was 31% higher than the rate in 2019. Approximately 75% of drug overdose deaths in 2020 involved an opioid, and opioid overdose deaths in 2020 were 8.5 times the number they were in 1999. In addition, opioids are nested in a broadening polysubstance

crisis, largely driven by deaths co-involving opioids and stimulants, such as cocaine and methamphetamine. While the overdose epidemic worsens in scope and magnitude, it is also becoming more complex.

In response to the growing severity of the opioid overdose epidemic, the U.S. government declared the opioid overdose epidemic a Public Health Emergency (PHE) on October 26, 2017, joining at least eight states that have declared the opioid overdose epidemic a statewide emergency. The opioid overdose epidemic is one of the U.S. Department of Health and Human Services (HHS) top priorities. In 2017, HHS launched a five-point Opioid Strategy: (1) Access: Better Prevention, Treatment, and Recovery Services; (2) Data: Better Data on the Epidemic; (3) Pain: Better Pain Management; (4) Overdoses: Better Targeting of Overdose-Reversing Drugs; and (5) Research: Better Research on Pain and Addiction.

CDC’s overdose surveillance and prevention efforts include the Overdose Data to Action (OD2A) cooperative agreement. The purpose of OD2A is to support funded jurisdictions in obtaining high quality, complete, and timelier data on opioid prescribing and overdoses involving opioids, stimulants, and polysubstance use, and to use those data to inform prevention and response efforts. The OD2A cooperative agreement, ending in August 2023, will be followed by two fundings aimed at reducing non-fatal and fatal overdoses; one will be focused on states and the other on localities. OD2A in States (OD2A-S) will focus on overdose surveillance and prevention efforts by state health departments and Washington, DC, while OD2A Limiting Overdose through Collaborative Actions in Localities (OD2A-LOCAL), will focus on overdose surveillance and prevention efforts by city and county health departments, and territories. These two cooperative agreements will allow funded jurisdictions to continue the work started in OD2A and adapt their overdose surveillance and

prevention efforts to the rapidly changing drug epidemic.

This is a Revision request for the currently approved Information Collection Request (ICR) to continue the collection of information from jurisdictions (which include states, Washington, DC, U.S. Territories, cities, and counties), collect new information from jurisdictions (which include states and Washington, DC), and collect new

information from jurisdictions (which include U.S. Territories, cities, and counties) funded under the OD2A–LOCAL. All jurisdictions funded by the OD2A NOFOs will report activity progress and capacity and workplan updates using web-based tools.

Information collected will provide crucial data for program performance monitoring, budget tracking, and where applicable, program success. The

information will also improve communication between CDC and funding recipients as well as inform technical assistance and guidance documents.

CDC requests OMB approval for an estimated 1,343 annualized burden hours. There are no costs to respondents other than their time to participate.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
OD2A-funded state, territory, county, and city health departments.	Evaluation and Performance Measuring Plan Template.	66	1	4
	Overdose Prevention Capacity Assessment Tool.	66	1	20/60
OD2A–S-funded state and District of Columbia health departments.	Annual Performance Report	66	1	40/60
	OD2A–S Annual Performance Report and Work Plan.	51	1	11
	OD2A–S Evaluation & Performance Measurement Plan Template.	51	1	20/60
OD2A–LOCAL-funded territory, county, and city health departments.	OD2A–S Data Management Plan	51	1	40/60
	OD2A–LOCAL Annual Performance Report and Work Plan.	40	1	9
	OD2A–LOCAL Evaluation & Performance Measurement Plan Template.	40	1	20/60
	OD2A–LOCAL Data Management Plan	40	1	40/60

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2023–01160 Filed 1–20–23; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–23–0879; Docket No. CDC–2023–0003]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden and maximize the utility of government information, invites the general public and other federal agencies the opportunity to comment on a continuing information collection, as required by the Paperwork Reduction Act of 1995. This notice invites

comment on a proposed information collection project titled Information Collections to Advance State, Tribal, Local, and Territorial (STLT) Governmental Agency and System Performance, Capacity, and Program Delivery. This collection is used to assess situational awareness of current public health emergencies, make decisions that affect planning, response and recovery activities of subsequent emergencies, and fill CDC and HHS gaps in knowledge of programs and/or STLT governments that will strengthen surveillance, epidemiology, and laboratory science, as well as improve CDC's support and technical assistance to states and communities.

DATES: CDC must receive written comments on or before March 24, 2023.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2023–0003 by either of the following methods:

- *Federal eRulemaking Portal:* www.regulations.gov. Follow the instructions for submitting comments.
- *Mail:* Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS H21–8, Atlanta, Georgia 30329.

• *Instructions:* All submissions received must include the agency name and Docket Number. CDC will post,

without change, all relevant comments to www.regulations.gov.

Please note: Submit all comments through the Federal eRulemaking portal (www.regulations.gov) or by U.S. mail to the address listed above.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS H21–8, Atlanta, Georgia 30329; Telephone: 404–639–7570; Email: omb@cdc.gov.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to the OMB for approval. To

comply with this requirement, we are publishing this notice of a proposed data collection as described below.

The OMB is particularly interested in comments that will help:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected;
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses; and
5. Assess information collection costs.

Proposed Project

Information Collections to Advance State, Tribal, Local, and Territorial (STLT) Governmental Agency and System Performance, Capacity, and Program Delivery—Extension—Center for State, Tribal, Local and Territorial

Support (CSTLTS), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The mission of the Department of Health and Human Services (HHS) is to enhance the health and well-being of all Americans. As part of HHS, CDC conducts critical science and provides health information to people and communities to save lives and protect people from health threats. To this end, CDC and HHS seek to accomplish their mission by collaborating with partners throughout the nation and the world to monitor health, detect and investigate health problems, conduct research to enhance prevention, develop and advocate sound public health policies, implement prevention strategies, promote healthy behaviors, foster safe and healthful environments, and provide leadership and training.

CDC is requesting a three-year approval to extend a Generic clearance to collect information related to domestic public health issues and services that affect and/or involve State, Tribal, Local, and Territorial (STLT) government entities. The respondent universe is comprised of STLT governmental staff or delegates acting on behalf of a STLT agency involved in the provision of essential public health services in the United States. Delegate is defined as a governmental or non-governmental agent (agency, function,

office or individual) acting for a principal or submitted by another to represent or act on their behalf. The STLT agency is represented by a STLT entity or delegate with a task to protect and/or improve the public's health.

Information will be used to: (1) assess situational awareness of current public health emergencies; (2) make decisions that affect planning, response and recovery activities of subsequent emergencies; (3) fill CDC and HHS gaps in knowledge of programs and/or STLT governments that will strengthen surveillance, epidemiology, and laboratory science; and (4) improve CDC's support and technical assistance to states and communities. CDC and HHS will conduct brief data collections, across a range of public health topics related to essential public health services.

CDC estimates up to 30 data collections with STLT governmental staff or delegates, and 10 data collections with local/county/city governmental staff or delegates will be conducted on an annual basis. Approximately 95% of these data collections will be web-based and 5% will be conducted via telephone, in-person, or focus groups.

CDC requests OMB approval for an estimated 54,000 annual burden hours. There are no costs to respondents other than their time to participate.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per respondent (in hrs.)	Total burden (in hrs.)
State, Territorial, or Tribal government staff or delegate. Local/County/City government staff or delegate.	Web, telephone, in-person, focus group.	800	30	1	24,000
	Web, telephone, in-person, focus group.	3,000	10	1	30,000
Total .....	.....	.....	.....	.....	54,000

Jeffrey M. Zirger,
*Lead, Information Collection Review Office,
Office of Scientific Integrity, Office of Science,
Centers for Disease Control and Prevention.*
[FR Doc. 2023-01161 Filed 1-20-23; 8:45 am]

BILLING CODE 4163-18-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day-23-0910; Docket No. CDC-2023-0004]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden and maximize the utility of government information, invites the general public and other federal agencies the opportunity to comment on a proposed and/or continuing information collection, as required by the Paperwork Reduction Act of 1995. This notice invites comment on a proposed information collection project titled Message Testing for Tobacco Communication Activities (MTTCA). The primary purpose and use of information collected under MTTCA is to inform the development and

pretesting of materials for the CDC's ongoing National Tobacco Education Campaign (NTEC), and other health messages that are not specifically associated with the NTEC (e.g., Surgeon General's Reports).

DATES: CDC must receive written comments on or before March 24, 2023.

ADDRESSES: You may submit comments, identified by Docket No. CDC-2023-0004 by any of the following methods:

- *Federal eRulemaking Portal:* www.regulations.gov. Follow the instructions for submitting comments.
- *Mail:* Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS H21-8, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. CDC will post, without change, all relevant comments to www.regulations.gov.

Please note: Submit all comments through the Federal eRulemaking portal (www.regulations.gov) or by U.S. mail to the address listed above.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS H21-8, Atlanta, Georgia 30329; Telephone: 404-639-7118; Email: omb@cdc.gov.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501-3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to the OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

The OMB is particularly interested in comments that will help:

1. Evaluate whether the proposed collection of information is necessary

for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected;

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses; and

5. Assess information collection costs.

Proposed Project

Message Testing for Tobacco Communication Activities (MTTCA) (OMB Control No. 0920-0910, Exp. 01/31/2024)—Revision—National Center for Chronic Disease Prevention and Health Promotion (NCCDPH), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

CDC has employed the Message Testing for Tobacco Communication Activities (MTTCA, OMB Control No. 0920-0910) clearance since 2012. The MTTCA clearance collects information about attitudes and perceptions among adults who smoke and adults who don't smoke, and is designed to pretest draft messages and materials for clarity, salience, appeal, and persuasiveness. The MTTCA clearance has been used to obtain OMB approval for a variety of message testing activities, with particular emphasis on communications supporting CDC's National Tobacco Education Campaign (NTEC) called the *Tips From Former Smokers*® campaign. This national campaign is designed to increase public awareness of the health consequences of tobacco use and exposure to secondhand smoke. The MTTCA clearance has also supported formative research relating to the development of health messages for a campaign to encourage educators to speak with middle and high school students about the risks of e-cigarette use and empower them to avoid or quit e-cigarettes.

Information collection modes under the MTTCA clearance that are supported include in-person and online in-depth interviews; in-person and online focus groups; and online surveys. Each project approved under the MTTCA framework is outlined in a project specific Generic Information Collection Request (GenIC) that describes its purpose and methodology. Messages developed from MTTCA data collection have been disseminated via multiple media channels including television, radio, print, out-of-home, and digital formats.

CDC requests OMB approval for a Revision to the MTTCA clearance, for three years. Requested changes are to increase the number of respondents and burden hours. These adjustments will support data collections among people who smoke and people who do not smoke, including, but not limited to, people who smoke and are members of populations that are disproportionately affected by commercial tobacco (e.g., people from racial and ethnic minority groups, people who are LGBTQ+, people of lower socioeconomic status, etc.), adult influencers of middle and high school students (e.g., educators, parents and health care providers), and youth aged 13-17 years. No modification is requested for information collection activities, methodology, or populations of interest from the existing Generic Clearance.

This Revision and requested changes are needed to support CDC's planned information collections and to accommodate additional needs that CDC may identify during the next three years. For example, the MTTCA Generic Clearance may be used to facilitate the development of tobacco-related health communications of interest for CDC's collaborative efforts with other federal partners including, but not limited to, the Food and Drug Administration's (FDA) Center for Tobacco Products. The MTTCA clearance should not replace the need for additional Generic Clearance mechanisms of HHS and other federal partners that may need to test tobacco messages related to their campaigns and initiatives.

CDC requests OMB approval for an estimated 20,039 annualized burden hours. Participation is voluntary and there are no costs to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
General Public and Special Populations.	Screening	74,386	1	2/60	2,480
General Public and Special Populations.	In-Depth Interviews (Online, In Person).	25	1	1	25
General Public and Special Populations.	Focus Groups (Online, In Person) ...	628	1	1.5	942
General Public and Special Populations.	Surveys (Online, Short)	71,000	1	20/60	15,453
General Public and Special Populations.	Surveys (Online, Medium)	2,733	1	25/60	1,139
Total .....	.....	.....	.....	.....	20,039

Jeffrey M. Zirger,

*Lead, Information Collection Review Office,
Office of Scientific Integrity, Office of Science,
Centers for Disease Control and Prevention.*

[FR Doc. 2023-01162 Filed 1-20-23; 8:45 am]

BILLING CODE 4163-18-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Income Withholding for Support Order (OMB No.: 0970-0154)

AGENCY: Office of Child Support Enforcement, Administration for Children and Families, Department of Health and Human Services.

ACTION: Request for public comments.

SUMMARY: The Office of Child Support Enforcement (OCSE), Administration for Children and Families (ACF), is requesting the federal Office of Management and Budget (OMB) to extend approval of the Income Withholding for Support Order (IWO), with minor changes, for an additional 3 years. The current OMB approval expires September 30, 2023.

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. All requests should be identified by the title of the information collection.

SUPPLEMENTARY INFORMATION:

Description: The IWO is the required, standard form used to order, and notify, employers and income providers to withhold child support payments from an obligor's income. It is also used to notify employers and other income providers where to remit the payments, as well as other information needed to correctly withhold payments so that children and families receive the support to which they are entitled.

The IWO form instructions underwent minor edits to clarify the language and improve the respondent's ability to properly complete the IWO Form. The burden estimates changed to reflect current estimates for the annual number of respondents and responses.

Respondents: Courts, private attorneys, custodial parties or their representatives, employers, and other entities that provide income to noncustodial parents.

ANNUAL BURDEN ESTIMATES

Information collection instrument	Total annual number of respondents	Total annual number of responses per respondent	Average burden hours per response	Total annual burden hours
Income withholding order/notice (Courts, private attorneys, custodial parties or their representatives).	4,694,517	1	5 minutes	391,210
Income withholding orders/termination of employment/income status (Employers and other income providers).	1,277,952	8.01	2 minutes	341,213
Electronic income withholding orders/termination of employment/income status (Employers and other income providers).	33,746	67.70	30 seconds ..	19,038

Estimated Total Annual Burden Hours: 751,461.

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: 42 U.S.C. 666(a)(1), (a)(8), and (b)(6).

John M. Sweet, Jr.,
ACF/OPRE Certifying Officer.

[FR Doc. 2023-01130 Filed 1-20-23; 8:45 am]

BILLING CODE 4184-41-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Tribal Budget and Narrative Justification Template (OMB #: 0970-0548)

AGENCY: Office of Child Support Enforcement, Administration for Children and Families, U.S. Department of Health and Human Services.

ACTION: Request for public comments.

SUMMARY: The Office of Child Support Enforcement (OCSE), Administration for Children and Families (ACF), U.S. Department of Health and Human Services (HHS), is proposing to renew the collection of expenditure estimate forms for the tribal child support enforcement program through an optional financial reporting form, Tribal Budget and Narrative Justification Template (Office of Management and Budget (OMB) #: 0970-0548; expiration date June 30, 2023). No changes are proposed.

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: To receive child support funding under 45 CFR part 309, tribes and tribal organizations must submit the financial forms described in 45 CFR 309.130(b) and other forms as the Secretary may designate, due no later than August 1 annually. This optional template is designed for tribes operating an approved tribal child support enforcement program to use in preparing their annual budget and narrative justification estimates in accordance with the tribal child support enforcement regulations. The optional Tribal Budget and Narrative Justification Template helps improve efficiency and establish uniformity and consistency in the annual budget submission and review process. Tribes may use the Excel or Word version of the template to submit the required financial information.

Respondents: Tribes and Tribal Organizations administering a tribal child support program under title IV-D of the Social Security Act.

ANNUAL BURDEN ESTIMATES

Instrument	Total number of respondents	Total number of responses per respondent	Average burden hours per response	Total burden hours	Annual burden hours
Tribal Budget and Narrative Justification—Excel	52	3	16	2,496	832
Tribal Budget and Narrative Justification—Word	8	3	20	480	160

Estimated Total Annual Burden Hours: 992.

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: 45 CFR 309.

John M. Sweet, Jr.,
ACF/OPRE Certifying Officer.

[FR Doc. 2023-01129 Filed 1-20-23; 8:45 am]

BILLING CODE 4184-41-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2020-N-1584]

Authorization of Emergency Use of Certain Medical Devices During COVID-19; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the issuance of Emergency Use Authorizations (EUAs) (the Authorizations) for certain medical devices related to the Coronavirus Disease 2019 (COVID-19) public health emergency. FDA has issued the Authorizations listed in this document under the Federal Food, Drug, and Cosmetic Act (FD&C Act). These Authorizations contain, among other things, conditions on the emergency use of the authorized products. The Authorizations follow the February 4, 2020, determination by the Secretary of Health and Human Services (HHS) that there is a public health emergency that has a significant potential to affect national security or the health and security of U.S. citizens living abroad and that involves the virus that causes

COVID-19, and the subsequent declarations on February 4, 2020, March 2, 2020, and March 24, 2020, that circumstances exist justifying the authorization of emergency use of in vitro diagnostics for detection and/or diagnosis of the virus that causes COVID-19, personal respiratory protective devices, and medical devices, including alternative products used as medical devices, respectively, subject to the terms of any authorization issued under the FD&C Act. These Authorizations, which include an explanation of the reasons for issuance, are listed in this document, and can be accessed on FDA's website from the links indicated.

DATES: These Authorizations are effective on their date of issuance.

ADDRESSES: Submit written requests for single copies of an EUA to the Office of Counterterrorism and Emerging Threats, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 1, Rm. 4338, Silver Spring, MD 20993-0002. Send one self-addressed adhesive label to assist that office in processing your request or include a fax number to which the Authorization may be sent. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the Authorization.

FOR FURTHER INFORMATION CONTACT: Jennifer Ross, Office of Counterterrorism and Emerging Threats, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 1, Rm. 4332, Silver Spring, MD 20993-0002, 301-796-8510 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Background

Section 564 of the FD&C Act (21 U.S.C. 360bbb-3) allows FDA to strengthen the public health protections against biological, chemical, radiological, or nuclear agent or agents. Among other things, section 564 of the FD&C Act allows FDA to authorize the use of an unapproved medical product or an unapproved use of an approved medical product in certain situations. With this EUA authority, FDA can help ensure that medical countermeasures may be used in emergencies to diagnose, treat, or prevent serious or life-threatening diseases or conditions caused by a biological, chemical, radiological, or nuclear agent or agents when there are no adequate, approved, and available alternatives.

Section 564(b)(1) of the FD&C Act provides that, before an EUA may be issued, the Secretary of HHS must declare that circumstances exist justifying the authorization based on one of the following grounds: (1) a

determination by the Secretary of Homeland Security that there is a domestic emergency, or a significant potential for a domestic emergency, involving a heightened risk of attack with a biological, chemical, radiological, or nuclear agent or agents; (2) a determination by the Secretary of Defense that there is a military emergency, or a significant potential for a military emergency, involving a heightened risk to U.S. military forces, including personnel operating under the authority of title 10 or title 50 of the U.S. Code, of attack with (A) a biological, chemical, radiological, or nuclear agent or agents; or (B) an agent or agents that may cause, or are otherwise associated with, an imminently life-threatening and specific risk to U.S. military forces;¹ (3) a determination by the Secretary of HHS that there is a public health emergency, or a significant potential for a public health emergency, that affects, or has a significant potential to affect, national security or the health and security of U.S. citizens living abroad, and that involves a biological, chemical, radiological, or nuclear agent or agents, or a disease or condition that may be attributable to such agent or agents; or (4) the identification of a material threat by the Secretary of Homeland Security pursuant to section 319F-2 of the Public Health Service (PHS) Act (42 U.S.C. 247d-6b) sufficient to affect national security or the health and security of U.S. citizens living abroad.

Once the Secretary of HHS has declared that circumstances exist justifying an authorization under section 564 of the FD&C Act, FDA may authorize the emergency use of a drug, device, or biological product if the Agency concludes that the statutory criteria are satisfied. Under section 564(h)(1) of the FD&C Act, FDA is required to publish in the **Federal Register** a notice of each authorization, and each termination or revocation of an authorization, and an explanation of the reasons for the action. Under section 564(h)(1) of the FD&C Act, revisions to an authorization shall be made available on the internet website of FDA. Section 564 of the FD&C Act permits FDA to authorize the introduction into interstate commerce of a drug, device, or biological product intended for use when the Secretary of HHS has declared that circumstances exist justifying the authorization of emergency use.

¹ In the case of a determination by the Secretary of Defense, the Secretary of HHS shall determine within 45 calendar days of such determination, whether to make a declaration under section 564(b)(1) of the FD&C Act, and, if appropriate, shall promptly make such a declaration.

Products appropriate for emergency use may include products and uses that are not approved, cleared, or licensed under section 505, 510(k), 512, or 515 of the FD&C Act (21 U.S.C. 355, 360(k), 360b, or 360e) or section 351 of the PHS Act (42 U.S.C. 262), or conditionally approved under section 571 of the FD&C Act (21 U.S.C. 360ccc). FDA may issue an EUA only if, after consultation with the HHS Assistant Secretary for Preparedness and Response, the Director of the National Institutes of Health, and the Director of the Centers for Disease Control and Prevention (to the extent feasible and appropriate given the applicable circumstances), FDA² concludes: (1) that an agent referred to in a declaration of emergency or threat can cause a serious or life-threatening disease or condition; (2) that, based on the totality of scientific evidence available to FDA, including data from adequate and well-controlled clinical trials, if available, it is reasonable to believe that (A) the product may be effective in diagnosing, treating, or preventing (i) such disease or condition; or (ii) a serious or life-threatening disease or condition caused by a product authorized under section 564, approved or cleared under the FD&C Act, or licensed under section 351 of the PHS Act, for diagnosing, treating, or preventing such a disease or condition caused by such an agent; and (B) the known and potential benefits of the product, when used to diagnose, prevent, or treat such disease or condition, outweigh the known and potential risks of the product, taking into consideration the material threat posed by the agent or agents identified in a declaration under section 564(b)(1)(D) of the FD&C Act, if applicable; (3) that there is no adequate, approved, and available alternative to the product for diagnosing, preventing, or treating such disease or condition; (4) in the case of a determination described in section 564(b)(1)(B)(ii), that the request for emergency use is made by the Secretary of Defense; and (5) that such other criteria as may be prescribed by regulation are satisfied. No other criteria for issuance have been prescribed by regulation under section 564(c)(4) of the FD&C Act.

II. Electronic Access

An electronic version of this document and the full text of the Authorizations are available on the internet and can be accessed from <https://www.fda.gov/emergency->

² The Secretary of HHS has delegated the authority to issue an EUA under section 564 of the FD&C Act to the Commissioner of Food and Drugs.

preparedness-and-response/mcm-legal-regulatory-and-policy-framework/emergency-use-authorization.

III. The Authorizations

Having concluded that the criteria for the issuance of the following Authorizations under section 564(c) of the FD&C Act are met, FDA has authorized the emergency use of the following products for diagnosing, treating, or preventing COVID-19 subject to the terms of each Authorization. The Authorizations in their entirety, including any authorized fact sheets and other written materials, can be accessed from the FDA web page entitled “Emergency Use Authorization,” available at <https://www.fda.gov/emergency-preparedness-and-response/mcm-legal-regulatory-and-policy-framework/emergency-use-authorization>. The lists that follow include Authorizations issued from June 16, 2022, through December 6, 2022, and we have included explanations of the reasons for their issuance, as required by section 564(h)(1) of the FD&C Act. In addition, the EUAs that have been reissued can be accessed from FDA’s web page: <https://www.fda.gov/emergency-preparedness-and-response/mcm-legal-regulatory-and-policy-framework/emergency-use-authorization>.

FDA is hereby announcing the following Authorizations for molecular diagnostic and antigen tests for COVID-19, excluding multianalyte tests:³

- Genabio Diagnostics Inc.’s Genabio COVID-19 Rapid Self-Test Kit, issued July 8, 2022;
- Watmind USA’s Speedy Swab Rapid COVID-19 Antigen Self-Test, issued July 8, 2022;
- Predicine, Inc.’s Predicine SARS-CoV-2 RT-PCR Test, issued July 19, 2022;
- Aptitude Medical Systems Inc.’s Metrix COVID-19 Test, issued October 18, 2022;
- Nanobiosym Precision Testing Services’s The Nano Test for COVID-19, issued November 8, 2022;
- ANP Technologies, Inc.’s NIDS COVID-19 Antigen Home Test, issued November 17, 2022;

³ As set forth in the EUAs for these products, FDA has concluded that: (1) SARS-CoV-2 can cause a serious or life-threatening disease or condition, including severe respiratory illness, to humans infected by this virus; (2) based on the totality of scientific evidence available to FDA, it is reasonable to believe that the products may be effective in diagnosing COVID-19, and that the known and potential benefits of the products, when used for diagnosing COVID-19, outweigh the known and potential risks of such products; and (3) there is no adequate, approved, and available alternative to the emergency use of the products.

- Beijing Hotgen Biotech Co., Ltd.’s Hotgen COVID-19 Antigen Home Test, issued November 17, 2022;
- Premier Medical Laboratory Services’s Diversified Medical Healthcare SARS-CoV-2 Assay, issued November 18, 2022;
- CorDx, Inc.’s CorDx COVID-19 Ag Test, issued November 21, 2022;
- Azure Biotech Inc.’s Fastep COVID-19 Antigen Home Test, issued November 21, 2022;
- ACON Laboratories, Inc.’s Flowflex COVID-19 Antigen Rapid Test, issued December 6, 2022.

FDA is hereby announcing the following Authorization for a multianalyte test:

- Lucira Health, Inc.’s Lucira COVID-19 and Flu Test, issued November 22, 2022.⁴

FDA is hereby announcing the following Authorization for a serology test:

- Diazyme Laboratories, Inc.’s Diazyme SARS-CoV-2 Neutralizing Antibody CLIA Kit, issued December 6, 2022.⁵

In addition, on November 1, 2022, FDA issued a letter to Developers of Antigen In Vitro Diagnostics (IVDs) Authorized for Emergency Use for Coronavirus Disease 2019 (COVID-19) as of Today’s Date (November 1, 2022) for Revisions Related to Serial (Repeat) Testing for the EUAs of Antigen IVDs.⁶

⁴ As set forth in the EUA for this product, FDA has concluded that: (1) SARS-CoV-2 can cause a serious or life-threatening disease or condition, including severe respiratory illness, to humans infected by this virus; (2) based on the totality of scientific evidence available to FDA, it is reasonable to believe that the product may be effective in diagnosing COVID-19, through the simultaneous qualitative detection and differentiation of SARS-CoV-2, influenza A virus, and/or influenza B virus RNA, and that the known and potential benefits of the product, when used for diagnosing COVID-19, outweigh the known and potential risks of such product; and (3) there is no adequate, approved, and available alternative to the emergency use of the product.

⁵ As set forth in the EUA for this product, FDA has concluded that: (1) SARS-CoV-2 can cause a serious or life-threatening disease or condition, including severe respiratory illness, to humans infected by this virus; (2) based on the totality of scientific evidence available to FDA, it is reasonable to believe that the product may be effective in diagnosing recent or prior infection with SARS-CoV-2 by identifying individuals with an adaptive immune response to the virus that causes COVID-19, and that the known and potential benefits of the product, when used for such use, outweigh the known and potential risks of the product; and (3) there is no adequate, approved, and available alternative to the emergency use of the product.

⁶ FDA concluded revisions to the EUAs of the tests that are within the scope of the November 1, 2022, letter is appropriate to protect the public health or safety and revised all such EUAs pursuant to section 564(g)(2)(C) of the FD&C Act, including to revise the authorized use and to establish the additional condition set forth in the letter, as permitted by section 564(e) of the FD&C Act. The

Dated: January 17, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2023–01180 Filed 1–20–23; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Document Identifier OS–0945–0003]

Agency Information Collection Request. 30-Day Public Comment Request

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: In compliance with the requirement of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, is publishing the following summary of a proposed collection for public comment.

DATES: Comments on the ICR must be received on or before February 22, 2023.

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: Sherrette Funn, Sherrette.Funn@hhs.gov or (202) 264–0041. When submitting comments or requesting information, please include the document identifier 0945–0003–30D and project title for reference.

SUPPLEMENTARY INFORMATION: Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of

action is based on the available scientific evidence on the impact of serial testing on the performance of SARS-CoV-2 antigen tests. (Refer to: “Performance of Screening for SARS-CoV-2 using Rapid Antigen Tests to Detect Incidence of Symptomatic and Asymptomatic SARS-CoV-2 Infection: findings from the Test Us at Home prospective cohort study” at <https://www.medrxiv.org/content/10.1101/2022.08.05.22278466v1>.) The letter revised all current EUAs for antigen SARS-CoV-2 IVD devices as of November 1, 2022, by: (1) revising the authorized use to be for serial testing at least twice over 3 days for individuals with symptoms of COVID-19 and, for tests previously authorized for testing individuals without symptoms, revising the authorized use to be for serial testing at least thrice over 5 days for individuals without symptoms of COVID-19, (2) establishing a new condition of authorization regarding updating authorized labeling, and (3) eliminating a condition of authorization regarding evaluating clinical performance to support the serial screening claim.

information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Title of the Collection: HIPAA Privacy, Security, and Breach Notification Rules, and Supporting Regulations Contained in 45 CFR parts 160 and 164.

Type of Collection: Extension

OMB No. 0945-0003: Office for Civil Rights (OCR)—Health Information Privacy Division

Abstract: OCR requests approval to extend this existing, approved collection for three years without changing any collection requirements. No public comments were received. In 2021, OCR published a Notice of Proposed Rulemaking (NPRM) proposing modifications to the HIPAA Rules that would affect the hourly burdens associated with the HIPAA Rules. 86 FR 6446. OCR is reviewing public comment received on the NPRM about existing burdens associated with compliance with the HIPAA Rules, and

on changes in burden that could result from the modifications proposed in the NPRM. On December 2, 2022, OCR published a second NPRM proposing additional modifications to the HIPAA Rules, available at 87 FR 74216. OCR will also review public comment received on the 2022 NPRM, and will update this ICR to reflect the input we receive on this notice and through the rulemaking process.

Type of respondent: HIPAA covered entities, business associates, individuals, and professional and trade associations of covered entities and business associates.

ESTIMATED ANNUALIZED BURDEN TABLE

Section	Type of respondent	Number of respondents	Number of responses per respondent	Average burden hours per response [1]	Total burden hours
160.204	Process for Requesting Exception Determinations (states or persons).	1	1	16	16
164.308	Risk Analysis—Documentation [2]	1,700,000	1	10	17,000,000
164.308	Information System Activity Review—Documentation.	1,700,000	12	0.75	15,300,000
164.308	Security Reminders—Periodic Updates	1,700,000	12	1	20,400,000
164.308	Security Incidents (other than breaches)—Documentation.	1,700,000	52	5	442,000,000
164.308	Contingency Plan—Testing and Revision	1,700,000	1	8	13,600,000
164.308	Contingency Plan—Criticality Analysis	1,700,000	1	4	6,800,000
164.310	Maintenance Records	1,700,000	12	6	122,400,000
164.314	Security Incidents—Business Associate reporting of incidents (other than breach) to Covered Entities.	1,000,000	12	20	240,000,000
164.316	Documentation—Review and Update [3]	1,700,000	1	6	10,200,000
164.404	Individual Notice—Written and E-mail Notice (drafting) [4].	58,482	1	0.5	29,241
164.404	Individual Notice—Written and E-mail Notice (preparing and documenting notification).	58,482	1	0.5	29,241
164.404	Individual Notice—Written and E-mail Notice (processing and sending) [5].	58,482	1,941	0.008	908,108
164.404	Individual Notice—Substitute Notice (posting or publishing) [6].	2,746	1	1	2,746
164.404	Individual Notice—Substitute Notice (staffing toll-free number) [7].	2,746	1	3.42	9,391
164.404	Individual Notice—Substitute Notice (individuals' voluntary burden to call toll-free number for information) [8], [9].	113,264	1	0.125	14,158
164.406	Media Notice [10]	267	1	1.25	334
164.408	Notice to Secretary (notice for breaches affecting 500 or more individuals).	267	1	1.25	334
164.408	Notice to Secretary (notice for breaches affecting fewer than 500 individuals) [11].	58,215	1	1	58,215
164.410	Business Associate notice to Covered Entity—500 or more individuals affected.	20	1	50	1,000
164.410	Business Associate notice to Covered Entity—Less than 500 individuals affected.	1,165	1	8	9,320
164.414	500 or More Affected Individuals (investigating and documenting breach).	267	1	50	13,350
164.414	Less than 500 Affected Individuals (investigating and documenting breach)—affecting 10–499.	2,479	1	8	19,832
164.414	Less than 500 Affected Individuals (investigating and documenting breach)—affecting <10.	55,736	1	4	222,944
164.504	Uses and Disclosures—Organizational Requirements.	700,000	1	0.083333333	58,333
164.508	Uses and Disclosures for Which Individual authorization is required.	700,000	1	1	700,000
164.512	Uses and Disclosures for Research Purposes [12].	113,524	1	0.083333333	9,460

ESTIMATED ANNUALIZED BURDEN TABLE—Continued

Section	Type of respondent	Number of respondents	Number of responses per respondent	Average burden hours per response [1]	Total burden hours
164.520	Notice of Privacy Practices for Protected Health Information (health plans—periodic distribution of NPPs by paper mail) [13], [18].	100,000,000	1	0.004166667	416,667
164.520	Notice of Privacy Practices for Protected Health Information (health plans—periodic distribution of NPPs by electronic mail) [19].	100,000,000	1	0.002783333	278,333
164.520	Notice of Privacy Practices for Protected Health Information (health care providers—dissemination and acknowledgement) [14].	613,000,000	1	0.05	30,650,000
164.522	Rights to Request Privacy Protection for Protected Health Information [15].	20,000	1	0.05	1,000
164.524	Access of Individuals to Protected Health Information (disclosures) [16].	200,000	1	0.05	10,000
164.526	Amendment of Protected Health Information (requests).	150,000	1	0.083333333	12,500
164.526	Amendment of Protected Health Information (denials).	50,000	1	0.083333333	4,167
164.528	Accounting for Disclosures of Protected Health Information [17].	5,000	1	0.05	250
Total .....	.....	.....	2,070	.....	921,158,940

Sherrette A. Funn,

Paperwork Reduction Act Reports Clearance Officer, Office of the Secretary.

[FR Doc. 2023–01196 Filed 1–20–23; 8:45 am]

BILLING CODE 4153–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Notice of Privacy Act of 1974; System of Records

AGENCY: Office of Infectious Disease and HIV/AIDS Policy, Office of the Assistant Secretary for Health, Office of the Secretary, Department of Health and Human Services.

ACTION: Notice of a new system of records.

SUMMARY: In accordance with the Privacy Act, the Department of Health and Human Services (HHS) is establishing a new system of records to be maintained by the Office of Infectious Disease and HIV/AIDS Policy within the Office of the Assistant Secretary for Health (OASH/OIDP), System No. 09–90–2101 “HIV Prevention Medication Distribution Records.” The new system of records will consist of records about individual patients who participate in the Ending the HIV Epidemic—Pre-Exposure Prophylaxis Implementation and Distribution Services Program (PrEP Program), which will provide donated HIV prevention medication to patients in the United States who are at substantial risk of acquiring the human immunodeficiency virus (HIV).

DATES: In accordance with 5 U.S.C. 552a(e)(4) and (11), this notice is effective upon publication, subject to a 30-day period in which to comment on the routine uses, described below. Please submit any comments by February 22, 2023.

ADDRESSES: The public should submit comments on the new system of records by email to ann.abercrombie@hhs.gov.

FOR FURTHER INFORMATION CONTACT: General questions about the system of records may be submitted to Ann Abercrombie, OASH/OIDP at (202) 401–9588, or ann.abercrombie@hhs.gov.

SUPPLEMENTARY INFORMATION: Within the U.S. Department of Health and Human Services (HHS), the Office of the Assistant Secretary for Health (OASH) leads development of agency-wide public health policy recommendations and oversees core public health offices, including the Office of the Surgeon General and the U.S. Public Health Service Commissioned Corps, as well as 10 regional health offices across the nation and 10 presidential and secretarial advisory committees. The mission of the Office of Infectious Disease and HIV/AIDS Policy (OIDP) is to provide strategic leadership and management, while encouraging collaboration, coordination, and innovation among federal agencies and stakeholders to reduce the burden of infectious diseases, including the human immunodeficiency virus (HIV).

The initiative to End the HIV Epidemic in the U.S. is part of a national HIV prevention and control

effort to reduce the number of new HIV infections by 75% in five years and 90% in 10 years. A key component of the initiative is expanding access to HIV prevention medication for patients who are at substantial risk of acquiring the disease. Pursuant to a donation agreement executed May 8, 2019, a drug manufacturer, Gilead Sciences, Inc. (Gilead), donated certain HIV prevention medication (emtricitabine/tenofovir disoproxil fumarate and emtricitabine/tenofovir alafenamide tablets, collectively referred to as “Product”) to HHS for distribution through the Ending the HIV Epidemic—Pre-Exposure Prophylaxis (PrEP) Implementation and Distribution Services Program (PrEP Program), which will be administered by OASH/OIDP subject to the terms of the donation agreement between Gilead and HHS. Under the terms of the donation agreement, Gilead will donate Product for up to 200,000 individuals each year up to end of 2030 or earlier. The PrEP Program, through a contractor engaged by OASH/OIDP, will issue an enrollment card or electronic enrollment confirmation, containing a unique identification number, to each qualified eligible patient in the United States who applies to the program (up to 200,000 individuals per year). This will enable the patient to obtain the Product at no cost, either in person or by mail, from a participating pharmacy. The contractor will operate a mail order pharmacy to acquire the Product from Gilead and dispense it to patients who elect to receive the Product by mail. The

contractor will also engage a subcontractor to serve as a claims processor to verify the validity of enrollment identification numbers for pharmacies before pharmacies dispense the Product, and to reimburse the pharmacies' acquisition costs and taxes. All prescription and shipping costs will be 100% covered by OIDP and the Gilead donation. However, costs that patients incur for clinic visits and lab tests required to remain eligible for the program are not covered by the program.

The mail-order pharmacy and other pharmacies that wish to participate in the program must sign an agreement with HHS agreeing that they will donate their services (agreeing to be reimbursed only for wholesale acquisition cost and taxes for the Product they dispense). Participating pharmacies also sign an addendum with the claims processor acknowledging that they will receive reimbursement for wholesale acquisition cost and taxes only, with no dispensing or other fees. The list of participating pharmacies is available on this website <https://www.hiv.gov/federal-response/ending-the-hiv-epidemic/prep-pharmacies>.

The claims processor (subcontractor) will have access to enrollment identification numbers and the dates the numbers are valid (not other information about patients). The contractor will collect and maintain all records needed to determine patients' initial and continued eligibility for the Program and to operate the mail-order pharmacy. The contractor will, for example, obtain twice yearly confirmations of the patient's continued eligibility from the patient and the patient's prescribing health care provider; and, if the patient elects mail order, the contractor will notify the provider to send the prescription to the mail-order pharmacy to be filled. The mail-order pharmacy will confirm the patient's shipping information and current eligibility for the program, using the patient's enrollment identification number.

Dated: December 6, 2022.

Rucia A. Abercrombie,
Lead Management Analyst, OIDP.

SYSTEM NAME AND NUMBER:

HIV Prevention Medication
Distribution Records, 09–90–2101.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

The address of the agency component responsible for the system of records is the Office of Infectious Disease and HIV/AIDS Policy (OASH/OIDP), U.S.

Department of Health & Human Services, 330 C St. SW—Suite L100, Washington, DC 20024. The records will be housed in a contractor-owned information technology (IT) system.

SYSTEM MANAGER(S):

Director, Office of Infectious Disease and HIV/AIDS Policy (OASH/OIDP), Department of Health & Human Services, 330 C St. SW—Suite L100, Washington, DC 20201, (202) 795–7697.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Authorization to collect and maintain the records is provided under sections 301, 1702, and 1703 of the Public Health Service Act (42 U.S.C. 241, 300u–1, and 300u–2).

PURPOSE(S) OF THE SYSTEM:

The records in this system of records will be used to administer the Pre-Exposure Prophylaxis (PrEP) Implementation and Distribution Services Program (PrEP Program, or Program), the goal of which is to distribute donated HIV prevention medication (Product) appropriately to qualifying patients in the United States who are at high risk of acquiring HIV, in order to reduce transmission of HIV. To administer the Program, OASH/OIDP, through a contractor, will use the records for these specific purposes:

- To determine if patients who apply for enrollment in the Program are eligible to receive the Product under the terms of the donation agreement between HHS and the drug manufacturer, Gilead Sciences, Inc. (Gilead);
- To enroll qualified eligible patients in the Program and issue an enrollment card or confirmation containing a unique enrollment identification number to each enrolled patient, and, thereafter, to confirm each patient's continued eligibility to remain enrolled in the Program;
- To verify the validity of enrollment identification numbers, for Product dispensing and cost reimbursement purposes.
- To reimburse participating pharmacies' wholesale acquisition cost and taxes, for the Product they dispense to patients;
- To monitor and audit the Program to prevent, detect, and address any program violations, errors, fraud, and improper distribution of benefits, to ensure the integrity of the Program; and
- To compile statistics for reports and to conduct research to evaluate the effectiveness of the Program.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The records will be about patients who apply for Product through the PrEP Program.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records will consist of application records, enrolled patient records, and reimbursement records.

- Application records will include information needed to identify a patient and verify the patient's initial eligibility to be enrolled in the Program, to include: patient name, date of birth, location, and the last four digits of the patient's Social Security Number; name and address of prescribing practitioner and practice location; the patient's certification that the patient is not covered by a health insurance plan or policy that covers outpatient prescription drugs; and the patient's consent to information sharing between OASH/OIDP, its contractor, the Product manufacturer, and the patient's prescribing health care provider. A patient (or the patient's health care provider) can submit an application to the program through the Program's online portal or call center hub. Demographic information (race, ethnicity, gender identity, and sex assigned at birth) will be included in both application records and enrolled patient records, for statistical purposes only, to use in government analyses of the data at an aggregate level.
- Enrolled patient records will include the above application information; a unique identifier assigned to the patient by the OASH/OIDP contractor (included on the patient's enrollment card or enrollment confirmation); twice yearly confirmations of the patient's continued eligibility (e.g., negative HIV status based on quarterly HIV tests) from the patient's prescribing health care provider; amount of Product dispensed to the patient, reported by the participating pharmacy; and periodic recertification(s) from the patient attesting that the patient is not covered by a health insurance plan or policy that covers outpatient prescription drugs. The records will also indicate whether the patient elected to receive Product by mail or was issued an enrollment card to use to obtain the Product from the participating pharmacy's customary retail inventory.
- The claims processor will use the enrollment identification number provided by a participating pharmacy to verify patient eligibility in the program and to generate a claim number used to reimburse the pharmacy's wholesale

acquisition cost and taxes for the Product dispensed.

RECORD SOURCE CATEGORIES:

Information in the patient's application records and enrolled patient records will be obtained directly from the patient or the patient's prescribing health care provider. The OASH/OIDP contractor will assign the unique enrollment identification number to the patient upon enrollment.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

In addition to other disclosures that may be made without the patient's prior, written consent which are authorized directly in the Privacy Act at 5 U.S.C. 552a(b)(1)–(b)(2) and (b)(4)–(11), HHS may disclose information about a patient from this system of records to parties outside the agency pursuant to these routine uses.

1. Records may be disclosed to agency contractors, consultants, or others who have been engaged by the agency to assist in accomplishment of an HHS function relating to the purposes of this system of records and who need to have access to the records in order to assist HHS. Note that this routine use will authorize any such disclosures which are not adequately covered by the patient's consent provided on or with the enrollment application. Any contractor will be required to comply with the requirements of the Privacy Act.

2. Records may be disclosed to a patient's prescribing healthcare provider to verify the patient's initial, or continued, eligibility for enrollment. Note that this routine use will authorize any such disclosures which are not adequately covered by the patient's consent on or with the enrollment application.

3. Records may be disclosed to Gilead Sciences, Inc., to ensure individuals are not actively enrolling in both Gilead's Advancing Access program and HHS' Ready, Set, PreP program simultaneously. Note that this routine use will authorize any such disclosures which are not adequately covered by the patient's consent on or with the enrollment application.

4. Information may be disclosed to the U.S. Department of Justice (DOJ) or to a court or other tribunal in litigation or other proceedings, when the agency or any component thereof, or any employee of the agency in his or her official capacity, or any employee of the agency in his or her individual capacity where DOJ has agreed to represent the employee, or the United State

Government is a party to the proceedings or has an interest in such proceedings and, by careful review, HHS determines that the records are both relevant and necessary to the proceedings.

5. Records may be disclosed to a congressional office from the record of an individual in response to a written inquiry from the congressional office made at the written request of that individual.

6. Records may be disclosed to representatives of the National Archives and Records Administration (NARA) during records management inspections conducted pursuant to 44 U.S.C. 2904 and 2906.

7. Records may be disclosed to appropriate agencies, entities, and persons when (1) HHS suspects or has confirmed that there has been a breach of the system of records, (2) HHS has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, HHS (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 HHS's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

8. Records may be disclosed to another federal agency or federal entity, when HHS 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.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

The records will be stored on electronic media.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records will be retrieved by the patient's unique enrollment identification number.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

OASH is developing a disposition schedule for the records and plans to propose a retention period of approximately 10 years for the records. Until the schedule has been submitted

to and approved by the National Archives and Records Administration (NARA), the records will be retained indefinitely.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

The records will be safeguarded in accordance with applicable laws, rules and policies, including the pertinent National Institutes of Standards and Technology (NIST) publications and OMB Circular A–130, Managing Information as a Strategic Resource. Records will be protected from unauthorized access through appropriate administrative, physical, and technical safeguards. Safeguards will conform to the HHS Information Security and Privacy Program, <https://www.hhs.gov/ocio/securityprivacy/>.

The safeguards will include protecting the facilities where records are stored or accessed with security guards, badges and cameras; limiting access to electronic databases to authorized users based on roles and the principle of least privilege and either two-factor authentication or user name and password; using a secured operating system protected by encryption, firewalls, and intrusion detection systems; using an SSL connection for secure encrypted transmissions; requiring encryption for records stored on removable media; and training personnel in Privacy Act and information security requirements. Records that are eligible for destruction will be disposed of using secure destruction methods prescribed by NIST SP 800–88.

RECORD ACCESS PROCEDURES:

An individual seeking access to records about him or her in this system of records must submit a written access request to the System Manager (see above "System Manager" section). The request must contain the requester's full name, address, and signature. The request should also contain the requester's contact information and sufficient identifying particulars (such as, the unique identifier from the individual's enrollment card or enrollment confirmation) to enable HHS to locate the requested records. To verify the requester's identity, the signature must be notarized or the request must include the requester's written certification that the requester is the individual who the requester claims to be and that the requester understands that the knowing and willful request for or acquisition of records pertaining to an individual under false pretenses is a criminal offense subject to a fine of up to \$5,000. Requesters may also ask for

an accounting of disclosures that have been made of records about them, if any.

CONTESTING RECORD PROCEDURES:

An individual seeking to amend a record about him or her in this system of records must submit a written amendment request to the System Manager (see above “System Manager” section), containing the same information required for an access request and including verification of the requester’s identity in the same manner required for an access request. In addition, the request must reasonably identify the record and specify the information being contested, the corrective action sought, and the reasons for requesting the correction; and should include supporting information, showing how the record is inaccurate, incomplete, untimely, or irrelevant.

NOTIFICATION PROCEDURES:

An individual who wishes to know if this system of records contains records about that individual must submit a written notification request to the System Manager (see above “System Manager” section). The request must contain the same information required for an access request and must include verification of the requester’s identity in the same manner required for an access request.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

None.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

4-in-1 Grant Program—Urban Indian Health

Announcement Type: New and Competing Continuation.

Funding Announcement Number: HHS–2023–IHS–UIHP2–0001.

Assistance Listing (Catalog of Federal Domestic Assistance or CFDA) Number: 93.193.

Key Dates

Application Deadline Date: February 21, 2023.

Earliest Anticipated Start Date: April 1, 2023.

I. Funding Opportunity Description

Statutory Authority

The Indian Health Service (IHS) is accepting applications for grants for the 4-in-1 Grant Program. This program is authorized under the Snyder Act, 25 U.S.C. 13; the Transfer Act, 42 U.S.C. 2001(a); and Title V of the Indian Health Care Improvement Act (IHCIA), at 25 U.S.C. 1653(c)–(e) (authorizing grants for Health Promotion and Disease Prevention (HP/DP) services, Immunization services, and Mental Health services), and 1660a (authorizing grants for Alcohol and Substance Abuse related services). This program is described in the Assistance Listings located at <https://sam.gov/content/home> (formerly known as Catalog of Federal Domestic Assistance) under 93.193.

Background

In the late 1960s, Urban Indian community leaders began advocating at the local, state, and Federal levels to address the unmet health care needs of Urban Indians, and requested health care services and programs. These efforts resulted in an increase of preventative, medical, and behavioral health services, but there was growing recognition of challenges preventing Urban Indians in seeking health care services. To address these barriers, advocacy focused on the development of culturally appropriate activities that were unique to the social, cultural, and spiritual needs of American Indians and Alaska Natives residing in urban settings. Programs developed at that time were staffed by volunteers in storefront settings, with limited budgets, offering primary care, outreach, and referral services.

In response to efforts of the Urban Indian community leaders, Congress appropriated funds in 1966 through the IHS for a pilot urban clinic in Rapid City, South Dakota. In 1973, Congress appropriated funds to study unmet Urban Indian health needs in Minneapolis, Minnesota. The findings of this study documented cultural, economic, and access barriers to health care and led to congressional appropriations to support emerging Urban Indian clinics in several Bureau of Indian Affairs relocation cities, *e.g.*, Seattle, San Francisco, Tulsa, and Dallas. In 1976, Congress passed the IHCIA establishing the Urban Indian health program, and reauthorized the IHCIA in 2010 to improve the health and well-being of all American Indians and Alaska Natives, including Urban Indians. The development of programs for Urban Indians residing in urban areas include HP/DP services,

immunization services, alcohol and substance abuse related services, and mental health services, hereafter referred to as the “4-in-1 health program.”

Purpose

The purpose of this program is to ensure the highest possible health status for Urban Indians. Funding will be used to support the 4-in-1 health program objectives. These programs are integral components of the IHS health care delivery system. Funds from this effort will ensure that comprehensive, culturally acceptable personal and public health services are available and accessible to Urban Indians.

Required, Optional, and Allowable Activities

Each awardee shall provide health care services under this award only to eligible Urban Indians living within the urban center in which the Urban Indian Organization (UIO) is situated. An “Urban Indian” eligible for services, as codified at 25 U.S.C. 1603(13), (27), and (28), includes any individual who:

1. Resides in an urban center, which is any community that has a sufficient Urban Indian population with unmet health needs to warrant assistance under the IHCIA, as determined by the Secretary, Health and Human Services (HHS), and who meets one or more of the following criteria:

a. Irrespective of whether he or she lives on or near a reservation, is a member of a Tribe, band, or other organized group of Indians, including:

- i. those Tribes, bands, or groups terminated since 1940, and
- ii. those recognized now or in the future by the state in which they reside, or

b. Is a descendant, in the first or second degree, of any such member described in 1.a.; or

c. Is an Eskimo, or Aleut, or other Alaska Native; or

d. Is a California Indian;¹ or

e. Is considered by the Secretary of the Department of the Interior to be an Indian for any purpose; or

f. Is determined to be an Indian under regulations pertaining to Urban Indian health that are promulgated by the Secretary, HHS.

¹ Consistent with 25 U.S.C. 1603(3), (13), (28), and 1679, eligibility of California Indians may be demonstrated by documentation that the individual:

1. Is a descendant of an Indian who was residing in the State of California on June 1, 1852;
2. Holds trust interests in public domain, national forest, or Indian reservation allotments; or
3. Is listed on the plans for distribution of assets of California Rancherias and reservations under the Act of August 18, 1958 (72 Stat. 619), or is the descendant of such an individual.

Each awardee is responsible for taking reasonable steps to confirm that the individual is eligible for IHS services as an Urban Indian.

II. Award Information

Funding Instrument—Grant

Estimated Funds Available

The total funding identified for fiscal year (FY) 2023 is approximately \$450,000. Individual award amounts for the first budget year are anticipated to be between \$160,000 and \$249,360. New applicants may apply for funding up to \$200,000; current 4-in-1 health program awardees may apply for funding up to the amount approved in the last noncompeting award and must demonstrate that they have complied with previous terms and conditions of their award. The funding available for competing and subsequent continuation awards issued under this announcement is subject to the availability of appropriations and budgetary priorities of the Agency. The IHS is under no obligation to make awards that are selected for funding under this announcement.

Anticipated Number of Awards

Approximately two awards will be issued under this program announcement.

Period of Performance

The period of performance is for 4 years.

III. Eligibility Information

1. Eligibility

- To be eligible for this funding opportunity, an applicant must be an Urban Indian organization, as defined by 25 U.S.C. 1603(29), that is currently administering a contract or receiving a grant pursuant to 25 U.S.C. 1653. The term “Urban Indian organization” means a nonprofit corporate body situated in an urban center, governed by an Urban Indian controlled board of directors, and providing for the maximum participation of all interested Indian groups and individuals, which body is capable of legally cooperating with other public and private entities for the purpose of performing the activities described in 25 U.S.C. 1653(a). Applicants must provide proof of nonprofit status with the application, e.g., 501(c)(3).

The Division of Grants Management (DGM) will notify any applicants deemed ineligible.

Note: Please refer to Section IV.2 (Application and Submission Information/ Subsection 2, Content and Form of

Application Submission) for additional proof of applicant status documents required, such as proof of nonprofit status.

2. Cost Sharing or Matching

The IHS does not require cost sharing or matching funds for grants or cooperative agreements.

3. Other Requirements

Applications with budget requests that exceed the highest dollar amount outlined under Section II Award Information, Estimated Funds Available, or exceed the period of performance outlined under Section II Award Information, Period of Performance, are considered not responsive and will not be reviewed. The DGM will notify the applicant.

Additional Required Documentation Documentation of Support

The UIO must submit a letter of support from their organization’s board of directors.

Proof of Nonprofit Status

Organizations claiming nonprofit status must submit a current copy of the 501(c)(3) Certificate with the application.

IV. Application and Submission Information

Grants.gov uses a Workspace model for accepting applications. The Workspace consists of several online forms and three forms in which to upload documents—Project Narrative, Budget Narrative, and Other Documents. Give your files brief descriptive names. The filenames are key in finding specific documents during the objective review and in processing awards. Upload all requested and optional documents individually, rather than combining them into a single file. Creating a single file creates confusion when trying to find specific documents. Such confusion can contribute to delays in processing awards, and could lead to lower scores during the objective review.

1. Obtaining Application Materials

The application package and detailed instructions for this announcement are available at <https://www.Grants.gov>.

Please direct questions regarding the application process to DGM@ihs.gov.

2. Content and Form Application Submission

Mandatory documents for all applicants include:

- Application forms:
 - SF-424, Application for Federal Assistance.

- SF-424A, Budget Information—Non-Construction Programs. Each of the 4-in-1 health program areas (HP/DP, immunization, alcohol and substance abuse, and mental health), should be addressed in a separate Grant Program Function or Activity row/column of the SF-424A.

- SF-424B, Assurances—Non-Construction Programs.

- Project Abstract Summary form.

- Project Narrative (not to exceed 20 pages). See Section IV.2.A, Project Narrative for instructions.

- Budget Justification and Narrative (not to exceed five pages). See Section IV.2.B, Budget Narrative for instructions.

- Letter of Support from the UIO’s board of directors.

- 501(c)(3) Certificate.

- Biographical sketches for all Key Personnel (not to exceed one page each).

- Contractor/Consultant proposed scope of work and letter of commitment (not to exceed one page each, if applicable).

- Disclosure of Lobbying Activities (SF-LLL), if applicant conducts reportable lobbying.

- Certification Regarding Lobbying (GG-Lobbying Form).

- Copy of current Negotiated Indirect Cost rate (IDC) agreement (required in order to receive IDC).

- Organizational Chart or written information that shows where the 4-in-1 health program areas fit into the larger organization.

- Documentation of current Office of Management and Budget (OMB) Financial Audit (if applicable).

Acceptable forms of documentation include:

- Email confirmation from Federal Audit Clearinghouse (FAC) that audits were submitted; or

- Face sheets from audit reports. Applicants can find these on the FAC website at <https://facdissem.census.gov/>.

Public Policy Requirements

All Federal public policies apply to IHS grants and cooperative agreements. Pursuant to 45 CFR 80.3(d), an individual shall not be deemed subjected to discrimination by reason of their exclusion from benefits limited by Federal law to individuals eligible for benefits and services from the IHS. See <https://www.hhs.gov/grants/grants/grants-policies-regulations/index.html>.

Requirements for Project and Budget Narratives

A. Project Narrative: This narrative should be a separate document that is no more than 20 pages and must: (1)

have consecutively numbered pages; (2) use black font 12 points or larger (applicants may use 10 point font for tables); (3) be single-spaced; and (4) be formatted to fit standard letter paper (8-1/2 x 11 inches). Do not combine this document with any others.

Be sure to succinctly answer all questions listed under the evaluation criteria (refer to Section V.1, Evaluation Criteria) and place all responses and required information in the correct section noted below, or they will not be considered or scored. If the narrative exceeds the page limit, the application will be considered not responsive and will not be reviewed. The 20-page limit for the narrative does not include the standard forms, budget, budget justification, narrative, and/or other items. Page limits for each section within the project narrative are guidelines, not hard limits.

There are three parts to the narrative: Part 1—Program Information; Part 2—Program Planning and Evaluation; and Part 3—Organizational Capacity. See below for additional details about what must be included in the narrative.

Part 1: Program Information

Section 1: Needs

The statement of need describes the history and urban center currently served by the applicant. The statement of need also provides the facts and evidence that support the need for each of the 4-in-1 health program areas and establishes that the UIO understands the problems and can reasonably address them.

- Describe the current service gaps, including disconnection between available services and unmet needs of Urban Indians. This should include services at the UIO and in communities where Urban Indians reside.
- Describe the need for an enhanced infrastructure to increase the capacity to implement, sustain, and improve effective health care services offered to Urban Indians and any other service gaps and problems related to the need for infrastructure development within the UIO.

Part 2: Program Planning and Evaluation

Section 1: Program Plans

State the purpose, goals, and objectives of your proposed projects. Clearly state how proposed activities address the needs detailed in the statement of need. Describe fully and clearly plans to meet each of the 4-in-1 health program areas of this funding announcement. Each objective should be addressed with a corresponding time frame. Provide a work plan for the first

budget period (1 year) that details expected key activities, accomplishments, and includes responsible staff for each of the 4-in-1 health program areas.

Section 2: Program Evaluation

This section of the narrative should describe efforts to collect and report project data that will support and demonstrate grant activities for each of the 4-in-1 health program areas. Awardees will be required to participate in a national evaluation of the 4-in-1 grant program. Awardees will also be required to collect and report data pertaining to activities, processes, and outcomes. Data sources should include clinical Government Performance and Results Act (GRPA) measures, National Immunization Reporting System (NIRS) data, and standardized data sets from the Uniform Data System (UDS). Data collection activities from GRPA, NIRS, and UDS should capture and document program activities conducted throughout awarded years, including activities that will contribute to relevant project impact and improvements. This section should also describe the applicant's plan to evaluate program activities, including any implemented practice-based and evidence-based prevention or treatment programs and how practicing culture correlates with an improvement in health outcomes. The evaluation plan should describe expected results and any identified metrics to support program effectiveness. Evaluation plans should incorporate questions related to outcomes and processes, including documentation of lessons learned.

- Describe in a brief narrative a plan to monitor activities under each of the 4-in-1 health program areas to demonstrate progress towards program outcomes and inform future program decisions over the 4-year project period.
- Describe proposed evaluation methods, including performance measures and other data relevant to evaluation outcomes, including intended results (e.g., impact and outcomes). Include any partners who will assist in evaluation efforts if separate from the primary applicant.

Part 3: Organizational Capacity

Section 1: This section should describe your organizational capacity for each of the 4-in-1 health program areas. Current staff and future positions for the four program components should also be outlined.

- Identify qualified professionals who will implement and administer the proposed grant activities, including progress and financial reports.

- Identify a contact person to maintain open and consistent communication with the IHS program official on any programmatic barriers to meeting the requirements of the award.

- Describe the organization's current system and ability to develop partnerships with service providers and community programs, including families and support systems of Urban Indians.

- Describe potential project partners and community resources in the urban center.

B. Budget Narrative (Limit—5 Pages)

Provide a budget narrative that explains the amounts requested for each line item of the budget from the SF-424A (Budget Information for Non-Construction Programs) for the first year of the project. The applicant can submit with the budget narrative a more detailed spreadsheet than is provided by the SF-424A (the spreadsheet will not be considered part of the budget narrative). The budget narrative should specifically describe how each item will support the achievement of proposed objectives. Be very careful about showing how each item in the "Other" category is justified. Do NOT use the budget narrative to expand the project narrative.

3. Submission Dates and Times

Applications must be submitted through *Grants.gov* by 11:59 p.m. Eastern Time on the Application Deadline Date. Any application received after the application deadline will not be accepted for review. *Grants.gov* will notify the applicant via email if the application is rejected.

If technical challenges arise and assistance is required with the application process, contact *Grants.gov* Customer Support (see contact information at <https://www.Grants.gov>). If problems persist, contact Mr. Paul Gettys (Paul.Gettys@ihs.gov), Deputy Director, DGM, IHS, by telephone at (301) 443-2114. Please be sure to contact Mr. Gettys at least 10 days prior to the application deadline. Please do not contact the DGM until you have received a *Grants.gov* tracking number. In the event you are not able to obtain a tracking number, call the DGM as soon as possible.

The IHS will not acknowledge receipt of applications.

4. Intergovernmental Review

Executive Order 12372 requiring intergovernmental review is not applicable to this program.

5. Funding Restrictions

- Pre-award costs are not allowable.
- The available funds are inclusive of direct and indirect costs.
- Only one grant may be awarded per applicant.

6. Electronic Submission Requirements

All applications must be submitted via *Grants.gov*. Please use the <https://www.Grants.gov> website to submit an application. Find the application by selecting the “Search Grants” link on the homepage. Follow the instructions for submitting an application under the Package tab. No other method of application submission is acceptable.

If you cannot submit an application through *Grants.gov*, you must request a waiver prior to the application due date. You must submit your waiver request by email to DGM@ihs.gov, with a copy to Mr. Paul Gettys, Deputy Director, DGM, IHS, at Paul.Gettys@ihs.gov. Your waiver request must include clear justification for the need to deviate from the required application submission process. The IHS will not accept any applications submitted through any means outside of *Grants.gov* without an approved waiver.

If DGM approves your waiver request, you will receive a confirmation of approval email containing submission instructions. You must include a copy of the written approval with the application submitted to DGM. Applications that do not include a copy of the signed waiver from the Deputy Director of DGM will not be reviewed. The Grants Management Officer of DGM will notify the applicant via email of this decision. Applications submitted under waiver must be received by the DGM no later than 5:00 p.m. Eastern Time on the Application Deadline Date. Late applications will not be accepted for processing. Applicants that do not register for both the System for Award Management (SAM) and *Grants.gov* and/or fail to request timely assistance with technical issues will not be considered for a waiver to submit an application via alternative method.

Please be aware of the following:

- Please search for the application package in <https://www.Grants.gov> by entering the Assistance Listing (CFDA) number or the Funding Opportunity Number. Both numbers are located in the header of this announcement.
- If you experience technical challenges while submitting your application, please contact *Grants.gov* Customer Support (see contact information at <https://www.Grants.gov>).
- Upon contacting *Grants.gov*, obtain a tracking number as proof of contact.

The tracking number is helpful if there are technical issues that cannot be resolved and a waiver from the Agency must be obtained.

- Applicants are strongly encouraged not to wait until the deadline date to begin the application process through *Grants.gov* as the registration process for SAM and *Grants.gov* could take up to 20 working days.
- Please follow the instructions on *Grants.gov* to include additional documentation that may be requested by this funding announcement.
- Applicants must comply with any page limits described in this funding announcement.
- After submitting the application, the applicant will receive an automatic acknowledgment from *Grants.gov* that contains a *Grants.gov* tracking number. The IHS will not notify you that the application has been received.

System for Award Management (SAM)

Organizations that are not registered with SAM must access the SAM online registration through the SAM home page at <https://sam.gov>. United States (U.S.) organizations will also need to provide an Employer Identification Number from the Internal Revenue Service that may take an additional 2–5 weeks to become active. Please see *SAM.gov* for details on the registration process and timeline. Registration with the SAM is free of charge, but can take several weeks to process. Applicants may register online at <https://sam.gov>.

Unique Entity Identifier

Your *SAM.gov* registration now includes a Unique Entity Identifier (UEI), generated by *SAM.gov*, which replaces the DUNS number obtained from Dun and Bradstreet. *SAM.gov* registration no longer requires a DUNS number. Check your organization's *SAM.gov* registration as soon as you decide to apply for this program. If your *SAM.gov* registration is expired, you will not be able to submit an application. It can take several weeks to renew it or resolve any issues with your registration, so do not wait.

Check your *Grants.gov* registration. Registration and role assignments in *Grants.gov* are self-serve functions. One user for your organization will have the authority to approve role assignments, and these must be approved for active users in order to ensure someone in your organization has the necessary access to submit an application.

The Federal Funding Accountability and Transparency Act of 2006, as amended (“Transparency Act”), requires all HHS awardees to report information on sub-awards.

Accordingly, all IHS awardees must notify potential first-tier sub-awardees that no entity may receive a first-tier sub-award unless the entity has provided its UEI number to the prime awardee organization. This requirement ensures the use of a universal identifier to enhance the quality of information available to the public pursuant to the Transparency Act.

Additional information on implementing the Transparency Act, including the specific requirements for SAM, are available on the DGM Grants Management, Policy Topics web page at <https://www.ihs.gov/dgm/policytopics/>.

V. Application Review Information

Possible points assigned to each section are noted in parentheses. The project narrative and budget narrative should include only the first year of activities. The project narrative should be written in a manner that is clear to outside reviewers unfamiliar with prior related activities of the applicant. It should be well organized, succinct, and contain all information necessary for reviewers to fully understand the project. Attachments requested in the criteria do not count toward the page limit for the narratives. Points will be assigned to each evaluation criteria adding up to a total of 100 possible points. Points are assigned as follows:

1. Evaluation Criteria

Applications will be reviewed and scored according to the quality of responses to the required application components in Sections A–E outlined below. In developing the required sections of this application, use the instructions provided for each section, which have been tailored to this program. The application must use the five sections listed below (Sections A–E) in developing the narratives. The applicant must place the required information in the correct section to ensure it will be properly scored. The application will be scored according to how well the applicant addresses the requirements for each section listed below. The number of points after each section heading is the maximum number of points the Objective Review Committee (ORC) may assign to that section. Although scoring weights are not assigned to individual bullets, each bullet is assessed deriving the overall section score.

A. Introduction and Need for Assistance (25 Points)

1. Identify the proposed urban center and provide demographic information on the population(s) to receive services. Describe the stakeholders and resources

in the urban center that can help implement activities for each of the 4-in-1 health program areas.

2. Based on the information and/or data currently available, document the need to implement, sustain, and improve health care services offered to Urban Indians.

3. Based on available data, describe the service gaps and other problems related to the needs of Urban Indians. Identify the source of the data. Documentation of need may come from a variety of qualitative and quantitative sources. Examples of data sources for the quantitative data that could be used are local epidemiologic data, such as Tribal Epidemiology Centers, or IHS Area Offices, state data from state needs assessments, and/or national data from the Substance Abuse and Mental Health Services Administration's (SAMHSA) National Survey on Drug Use and Health, or from the National Center for Health Statistics/Centers for Disease Control and Prevention, and U.S. Census data (American Community Survey, etc.). This list is not exhaustive. Applicants may submit other valid data, as appropriate, for the applicant's programs.

B. Project Objective(s), Work Plan, and Approach (30 Points)

1. Describe the purpose of the proposed project, including a clear statement of goals and objectives. The project narrative is required to address each of the 4-in-1 health program areas.

a. *HP/DP*: Applicants are encouraged to use evidence-based and promising strategies that can be found at the IHS best practice database at <https://www.ihs.gov/hpdp/>, SAMHSA Evidence-based Practices Resource Center at <https://www.samhsa.gov/resource-search/ebp>, and the Guide to Community Preventive Services at <https://www.thecommunityguide.org/about/about-community-guide>. Applicants are encouraged to work collaboratively with their assigned Area HP/DP Coordinator.

b. *Immunization*: Applicants are encouraged to participate in the Vaccines for Children program (if applicable). Applicants are encouraged to research capability with state/regional immunization registry (where applicable). For sites using the IHS Resource and Patient Management System (RPMS), provide training sessions to providers and data entry clerks on the RPMS Immunization package. Establish a process for immunization data entry into RPMS (e.g., point of service, or through standard data entry). Utilize the RPMS Immunization package to identify 3- to

27-month-old children whose immunization records are not up to date and that generate reminder/recall letters. Applicants are encouraged to work collaboratively with their assigned Area Immunization Coordinator.

c. *Alcohol and Substance Abuse*: Describe services to be provided, e.g., residential, detoxification, halfway house, counseling, outreach, and referral, etc. Describe substance abuse prevention and education efforts to increase access to services, outreach, education, prevention, and treatment of substance abuse-related issues. Applicants are encouraged to work collaboratively with their assigned Area Behavioral Health Consultant.

d. *Mental Health*: Identify services to be provided, e.g., community outreach and referral, prevention, training sessions, evaluations, schools, domestic violence programs, child abuse programs, etc. Describe mental health prevention and education program efforts to increase access to services, outreach, referral, education, prevention, and treatment of mental health-related issues. Applicants are encouraged to work collaboratively with their assigned Area Behavioral Health Consultant.

2. Describe how project activities will increase the capacity of the UIO to improve access to and quality of care for Urban Indians.

3. Describe anticipated barriers and how these barriers will be addressed.

4. Describe how the proposed project will address issues of diversity for Urban Indians, including race/ethnicity, gender, culture/cultural identity, language, sexual orientation, disability, and literacy.

5. Describe how Urban Indians may receive services for each of the 4-in-1 health program areas and how they will be involved in the planning and implementation of the grant.

6. Describe how the efforts of the proposed project will be coordinated with any other related Federal grants, including the IHS, Centers for Disease Control and Prevention, SAMHSA, or Health Resources and Services Administration, etc. (if applicable).

7. Provide a work plan for the first year budget period that details expected key activities, accomplishments, and includes responsible staff for each of the 4-in-1 health program areas.

C. Program Evaluation (20 Points)

Describe plans to monitor activities under each of the 4-in-1 health program areas, demonstrate progress towards program outcomes, and inform future program decisions over the 4-year

project period. Applications should address the following points:

1. Describe proposed data collection efforts (performance measures and associated data) and how you will use the data to answer evaluation questions. This should include data collection method, data source, data measurement tool, identified staff for data management, and data collection timeline.

2. Identify key program partners and describe how they will participate in the implementation of the evaluation plan (e.g., Tribal Epidemiology Centers, universities, etc.).

3. Describe data collection and evaluation of any proposed practice-based and/or evidence-based care programs (e.g., how practicing culture correlates with an improvement in health) implemented throughout awarded years.

4. Describe how evaluation findings will be used at the applicant level. Discuss how data collected (e.g., performance measurement data) will be used and shared by the key program partners.

5. Discuss any barriers or challenges expected for implementing the plan, collecting data (e.g., responding to performance measures), and reporting on evaluation results. Describe how these potential barriers would be overcome. In addition, applicants may also describe other measures to be developed or additional data sources and data collection methods that will be used.

D. Organizational Capabilities, Key Personnel, and Qualifications (15 Points)

1. Describe the management capability of the UIO and other participating organizations in administering similar projects.

2. Identify staff to maintain open and consistent communication with the IHS program official on any financial or programmatic barriers to meeting the requirements of the award.

3. Identify the department(s) and/or division(s) that will administer each of the 4-in-1 health program areas. Include a description of these department(s) and/or division(s), their functions, and their placement within the UIO and their direct link to management.

4. Discuss the UIO's experience and capacity to provide culturally appropriate and competent services to the community and specific populations of focus.

5. Describe the resources available for the proposed project (e.g., facilities, equipment, information technology

systems, and financial management systems).

6. Identify other organization(s) that will participate in the proposed project. Describe their roles and responsibilities and demonstrate their commitment to each of the 4-in-1 health program areas.

7. Describe how project continuity will be maintained if there is a change in the operational environment (*e.g.*, staff turnover, change in project leadership, etc.) to ensure project stability over the life of the grant.

8. Provide a list of staff positions for the project and other key personnel, showing the role of each and their level of effort and qualifications for each of the 4-in-1 health program areas. Key personnel include the Chief Executive Officer or Executive Director, Chief Financial Officer, Medical Director, and Chief Information Officer.

9. Demonstrate successful project implementation for the level of effort budgeted for the project staff and other key staff.

10. Include position descriptions (upload as Other Attachments) for all key personnel. Position descriptions should not exceed one page each. Reviewers will not consider information past one page.

11. For individuals who are currently on staff, include a biographical sketch with their name (do not include personally identifiable information such as Social Security Number (SSN), date of birth, or place of birth) for each individual who will be listed as project staff and other key positions. Describe the experience of identified staff in each of the 4-in-1 health program areas. Upload each biographical sketch in the Other Attachments form in your *Grants.gov* application Workspace. Biographical sketches should not exceed one page per staff member. Reviewers will not consider information past one page. Do not include any of the following:

- a. Personally Identifiable Information (SSN, date of birth, or place of birth);
- b. Resumes; or
- c. Curriculum Vitae.

E. Categorical Budget and Budget Justification (10 Points)

1. Include a line item budget for each of the 4-in-1 health program areas for all expenditures identifying reasonable and allowable costs necessary to accomplish the goals and objectives as outlined in the project narrative for the first budget year only.

2. Provide a categorized budget for each of the 4-in-1 health program areas.

3. Applicants should ensure that the budget and budget narrative are aligned with the project narrative. The budget

and budget narrative the applicant provides will be considered by reviewers in assessing the applicant's submission, along with the material in the project narrative. Questions to address include: What resources are needed to successfully carry out and manage the project? What other resources are available from the organization? Will new staff be recruited? Will outside consultants be required?

4. For any outside consultants, include the total cost broken down by activity.

5. If indirect costs are claimed, indicate and apply the current negotiated rate to the budget. Include a copy of the current negotiated IDC rate agreement in the Other Attachments form in the application Workspace.

Additional documents can be uploaded as Other Attachments in *Grants.gov*. These can include:

- Work plan, logic model, and/or timeline for proposed objectives.
- Position descriptions for key staff (not to exceed one page each).
- Biographical sketch of key staff that reflects current duties (not to exceed one page each).
- Consultant or contractor proposed scope of work and letter of commitment (not to exceed one page each) (if applicable).
- Current IDC Rate Agreement.
- Organizational chart.
- Map of area identifying project location(s).
- Additional documents to support narrative (*i.e.*, data tables, key news articles, etc.).

2. Review and Selection

Each application will be prescreened for eligibility and completeness as outlined in the funding announcement. Applications that meet the eligibility criteria shall be reviewed for merit by the ORC based on evaluation criteria. Incomplete applications and applications that are not responsive to the administrative thresholds (budget limit, period of performance limit) will not be referred to the ORC and will not be funded. The program office will notify the applicant of this determination.

Applicants must address all program requirements and provide all required documentation.

3. Notifications of Disposition

All applicants will receive an Executive Summary Statement from the IHS Office of Urban Indian Health Programs within 30 days of the conclusion of the ORC outlining the strengths and weaknesses of their

application. The summary statement will be sent to the Authorizing Official identified on the face page (SF-424) of the application.

A. Award Notices for Funded Applications

The Notice of Award (NoA) is the authorizing document for which funds are dispersed to the approved entities and reflects the amount of Federal funds awarded, the purpose of the grant, the terms and conditions of the award, the effective date of the award, and the budget period, and period of performance. Each entity approved for funding must have a user account in GrantSolutions in order to retrieve the NoA. Please see the Agency Contacts list in Section VII for the systems contact information.

B. Approved but Unfunded Applications

Approved applications not funded due to lack of available funds will be held for 1 year. If funding becomes available during the course of the year, the application may be reconsidered.

Note: Any correspondence, other than the official NoA executed by an IHS grants management official announcing to the project director that an award has been made to their organization, is not an authorization to implement their program on behalf of the IHS.

VI. Award Administration Information

1. Administrative Requirements

Awards issued under this announcement are subject to, and are administered in accordance with, the following regulations and policies:

A. The criteria as outlined in this program announcement.

B. Administrative Regulations for Grants:

- Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards currently in effect or implemented during the period of award, other Department regulations and policies in effect at the time of award, and applicable statutory provisions. At the time of publication, this includes 45 CFR part 75, at <https://www.govinfo.gov/content/pkg/CFR-2021-title45-vol1/pdf/CFR-2021-title45-vol1-part75.pdf>.

- Please review all HHS regulatory provisions for Termination at 45 CFR 75.372, at the time of this publication located at <https://www.govinfo.gov/content/pkg/CFR-2021-title45-vol1/pdf/CFR-2021-title45-vol1-sec75-372.pdf>.

C. Grants Policy:

• HHS Grants Policy Statement, Revised January 2007, at <https://www.hhs.gov/sites/default/files/grants/grants/policies-regulations/hhsgps107.pdf>.

D. Cost Principles:

• Uniform Administrative Requirements for HHS Awards, “Cost Principles,” located at 45 CFR part 75 subpart E, at the time of this publication located at <https://www.govinfo.gov/content/pkg/CFR-2021-title45-vol1/pdf/CFR-2021-title45-vol1-part75-subpartE.pdf>.

E. Audit Requirements:

• Uniform Administrative Requirements for HHS Awards, “Audit Requirements,” located at 45 CFR part 75 subpart F, at the time of this publication located at <https://www.govinfo.gov/content/pkg/CFR-2021-title45-vol1/pdf/CFR-2021-title45-vol1-part75-subpartF.pdf>.

F. As of August 13, 2020, 2 CFR 200 was updated to include a prohibition on certain telecommunications and video surveillance services or equipment. This prohibition is described in 2 CFR 200.216. This will also be described in the terms and conditions of every IHS grant and cooperative agreement awarded on or after August 13, 2020.

2. Indirect Costs

This section applies to all awardees that request reimbursement of IDC in their application budget. In accordance with HHS Grants Policy Statement, Part II–27, the IHS requires applicants to obtain a current IDC rate agreement and submit it to the DGM prior to the DGM issuing an award. The IDC rate agreement must be prepared in accordance with the applicable cost principles and guidance as provided by the cognizant agency or office. A current rate covers the applicable grant activities under the current award’s budget period. If the current rate agreement is not on file with the DGM at the time of award, the IDC portion of the budget will be restricted. The restrictions remain in place until the current rate agreement is provided to the DGM.

Per 45 CFR 75.414(f) Indirect (F&A) costs,

any non-Federal entity (NFE) [i.e., applicant] that has never received a negotiated indirect cost rate, . . . may elect to charge a de minimis rate of 10 percent of modified total direct costs which may be used indefinitely. As described in Section 75.403, costs must be consistently charged as either indirect or direct costs, but may not be double charged or inconsistently charged as both. If chosen, this methodology once elected must be used consistently for all Federal awards until such time as the NFE chooses to negotiate for a rate, which the NFE may apply to do at any time.

Electing to charge a de minimis rate of 10 percent only applies to applicants that have never received an approved negotiated IDC rate from HHS or another cognizant federal agency. Applicants awaiting approval of their indirect cost proposal may request the 10 percent de minimis rate. When the applicant chooses this method, costs included in the indirect cost pool must not be charged as direct costs to the grant.

Available funds are inclusive of direct and appropriate indirect costs.

Approved indirect funds are awarded as part of the award amount, and no additional funds will be provided.

Generally, IDC rates for IHS awardees are negotiated with the Division of Cost Allocation at <https://rates.psc.gov/> or the Department of the Interior (Interior Business Center) at <https://ibc.doi.gov/ICS/tribal>. For questions regarding the indirect cost policy, please call the Grants Management Specialist listed under “Agency Contacts” or write to DGM@ihs.gov.

3. Reporting Requirements

The awardee must submit required reports consistent with the applicable deadlines. Failure to submit required reports within the time allowed may result in suspension or termination of an active grant, withholding of additional awards for the project, or other enforcement actions, such as withholding of payments or converting to the reimbursement method of payment. Continued failure to submit required reports may result in the imposition of special award provisions and/or the non-funding or non-award of other eligible projects or activities. This requirement applies whether the delinquency is attributable to the failure of the awardee organization or the individual responsible for preparation of the reports. Per DGM policy, all reports must be submitted electronically by attaching them as a “Grant Note” in GrantSolutions. Personnel responsible for submitting reports will be required to obtain a login and password for GrantSolutions. Please use the form under the Recipient User section of <https://www.grantsolutions.gov/home/getting-started-request-a-user-account/>. Download the Recipient User Account Request Form, fill it out completely, and submit it as described on the web page and in the form.

The reporting requirements for this program are noted below.

A. Progress Reports

Program progress reports are required quarterly. The progress reports are due within 30 days after the reporting period ends (specific dates will be listed in the NoA Terms and Conditions). Awardees

have the option to use the 4-in-1 Grant Reporting Template instead of developing their own format. The template is available at the 4-in-1 Grant web page at <https://www.ihs.gov/urban/4-in-1-grant-program/>.

The quarterly Progress Report shall demonstrate actual goals and objectives were met against established target measures, a summation of the program approach, and report on integrated cultural interventions and implementation of practice-based and/or evidence-based approaches, including a concise summary narrative of the program’s impact on the Urban Indian service population. If applicable, program changes for the next reporting period may be included.

To comply with statutory requirements consistent with 25 U.S.C. 1653(a), 1655, and 1657(a), the Progress Reporting Template includes a section for the awardee to report their unmet needs, or the awardee may use their own format to report their unmet needs. This includes information gathered by the awardee to: (1) identify gaps between unmet health needs of Urban Indians and the resources available to meet such needs; and (2) make recommendations to the Secretary and Federal, state, local, and other resource agencies on methods of improving health services to meet the needs of Urban Indians.

The final end of year and fourth quarter report must be submitted within 90 days of expiration of the period of performance.

B. Financial Reports

Federal Financial Reports are due 30 days after the end of each budget period, and a final report is due 90 days after the end of the period of performance. Awardees are responsible and accountable for reporting accurate information on all required reports: the Progress Reports and the Federal Financial Report.

Failure to submit timely reports may result in adverse award actions blocking access to funds.

C. Data Collection and Reporting

1. Government Performance and Results Act Reporting (GPRA)

The GPRA data period shall be the Federal fiscal year of October 1 through September 30. GPRA data shall be submitted electronically to the National Data Warehouse (NDW). All GPRA data submitted shall be verifiable and based upon criteria set forth for each GPRA performance standard. Monthly registration and workload data shall be

exported to the NDW. All data shall be exported by the cutoff date for that fiscal year. A GPRA Developmental Report shall be run at the end of the second and fourth quarters and sent to the National GPRA Support Team at caogpra@ihs.gov by the required due dates.

2. Uniform Data System (UDS)

The UDS reporting period shall be by calendar year. The UDS reports shall be due in January for the previous calendar year. The UDS data collection activities should capture and document actions conducted throughout awarded years, including activities that will contribute to relevant project impact.

3. Quarterly Immunization Report

Quarterly Immunization Reports are required and submitted to the online National Immunization Reporting System (NIRS) (<https://www.ihs.gov/NonMedicalPrograms/ihpes/immunizations/index.cfm?module=immunizations&option=home>). Awardees are required to submit immunization coverage reports on children 3- to 27-months old, 2-year-old, Adolescent, Adult, and Influenza on a quarterly basis. For sites not using the IHS RPMS, visit the Division of Epidemiology and Disease Prevention (DEDP) Vaccine-Preventable Diseases Reports website to access non-RPMS quarterly reporting forms. An Excel spreadsheet with the required data elements can be found under the "Non-RPMS Quarterly Reporting Forms" section at <https://www.ihs.gov/epi/immunization-and-vaccine-preventable-diseases/statistics-and-reports/>.

D. Federal Sub-Award Reporting System (FSRS)

This award may be subject to the Transparency Act sub-award and executive compensation reporting requirements of 2 CFR part 170.

The Transparency Act requires the OMB to establish a single searchable database, accessible to the public, with information on financial assistance awards made by Federal agencies. The Transparency Act also includes a requirement for recipients of Federal grants to report information about first-tier sub-awards and executive compensation under Federal assistance awards. The IHS has implemented a Term of Award into all IHS Standard Terms and Conditions, NoAs, and funding announcements regarding the FSRS reporting requirement. This IHS Term of Award is applicable to all IHS grant and cooperative agreements issued on or after October 1, 2010, with a

\$25,000 sub-award obligation threshold met for any specific reporting period.

For the full IHS Term of Award implementing this requirement and additional award applicability information, visit the DGM Grants Management website at <https://www.ihs.gov/dgm/policytopics/>.

E. Non-Discrimination Legal Requirements for Awardees of Federal Financial Assistance

Should you successfully compete for an award, recipients of Federal financial assistance (FFA) from HHS must administer their programs in compliance with Federal civil rights laws that prohibit discrimination on the basis of race, color, national origin, disability, age, and, in some circumstances, religion, conscience, and sex (including gender identity, sexual orientation, and pregnancy). This includes ensuring programs are accessible to persons with limited English proficiency and persons with disabilities. The HHS Office for Civil Rights provides guidance on complying with civil rights laws enforced by HHS. Please see <https://www.hhs.gov/civil-rights/for-providers/provider-obligations/index.html> and <https://www.hhs.gov/civil-rights/for-individuals/nondiscrimination/index.html>.

- Recipients of FFA must ensure that their programs are accessible to persons with limited English proficiency. For guidance on meeting your legal obligation to take reasonable steps to ensure meaningful access to your programs or activities by limited English proficiency individuals, see <https://www.hhs.gov/civil-rights/for-individuals/special-topics/limited-english-proficiency/fact-sheet-guidance/index.html> and <https://www.lep.gov>.

- For information on your specific legal obligations for serving qualified individuals with disabilities, including reasonable modifications and making services accessible to them, see <https://www.hhs.gov/civil-rights/for-individuals/disability/index.html>.

- HHS funded health and education programs must be administered in an environment free of sexual harassment. See <https://www.hhs.gov/civil-rights/for-individuals/sex-discrimination/index.html>.

- For guidance on administering your program in compliance with applicable Federal religious nondiscrimination laws and applicable Federal conscience protection and associated anti-discrimination laws, see <https://www.hhs.gov/conscience/conscience-protections/index.html> and <https://>

www.hhs.gov/conscience/religious-freedom/index.html.

F. Federal Awardee Performance and Integrity Information System (FAPIIS)

The IHS is required to review and consider any information about the applicant that is in the FAPIIS at <https://www.fapiis.gov/fapiis/#/home> before making any award in excess of the simplified acquisition threshold (currently \$250,000) over the period of performance. An applicant may review and comment on any information about itself that a Federal awarding agency previously entered. The IHS will consider any comments by the applicant, in addition to other information in FAPIIS, in making a judgment about the applicant's integrity, business ethics, and record of performance under Federal awards when completing the review of risk posed by applicants, as described in 45 CFR 75.205.

As required by 45 CFR part 75 Appendix XII of the Uniform Guidance, NFEs are required to disclose in FAPIIS any information about criminal, civil, and administrative proceedings, and/or affirm that there is no new information to provide. This applies to NFEs that receive Federal awards (currently active grants, cooperative agreements, and procurement contracts) greater than \$10 million for any period of time during the period of performance of an award/project.

Mandatory Disclosure Requirements

As required by 2 CFR part 200 of the Uniform Guidance, and the HHS implementing regulations at 45 CFR part 75, the IHS must require an NFE or an applicant for a Federal award to disclose, in a timely manner, in writing to the IHS or pass-through entity all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award.

All applicants and awardees must disclose in writing, in a timely manner, to the IHS and to the HHS Office of Inspector General all information related to violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. 45 CFR 75.113.

Disclosures must be sent in writing to: U.S. Department of Health and Human Services, Indian Health Service, Division of Grants Management, ATTN: Marsha Brookins, Director, 5600 Fishers Lane, Mail Stop: 09E70, Rockville, MD 20857, (Include "Mandatory Grant Disclosures" in subject line), Office: (301) 443-4750, Fax: (301) 594-0899, Email: DGM@ihs.gov.

AND

U.S. Department of Health and Human Services, Office of Inspector General, ATTN: Mandatory Grant Disclosures, Intake Coordinator, 330 Independence Avenue SW, Cohen Building, Room 5527, Washington, DC 20201, URL: <https://oig.hhs.gov/fraud/report-fraud/>, (Include "Mandatory Grant Disclosures" in subject line), Fax: (202) 205-0604 (Include "Mandatory Grant Disclosures" in subject line) or, Email: MandatoryGranteeDisclosures@oig.hhs.gov.

Failure to make required disclosures can result in any of the remedies described in 45 CFR 75.371 Remedies for noncompliance, including suspension or debarment (see 2 CFR part 180 and 2 CFR part 376).

VII. Agency Contacts

1. *Questions on the programmatic issues may be directed to:* Debi Nalwood, Health System Specialist, Indian Health Service, Office of Urban Indian Health Programs, 5600 Fishers Lane, Mail Stop: 08E65D, Rockville, MD 20857, Phone: (240) 701-0882, Email: Debi.nalwood@ihs.gov.

2. *Questions on grants management and fiscal matters may be directed to:* Pallop Chareonvootitum, Grants Management Specialist, Indian Health Service, Division of Grants Management, 5600 Fishers Lane, Mail Stop: 09E70, Rockville, MD 20857, Phone: (301) 443-2195, Email: Pallop.Chareonvootitum@ihs.gov.

3. *Questions on systems matters may be directed to:* Paul Gettys, Deputy Director, Division of Grants Management, Indian Health Service, Division of Grants Management, 5600 Fishers Lane, Mail Stop: 09E70, Rockville, MD 20857, Phone: (301) 443-2114; or the DGM main line (301) 443-5204, E-Mail: Paul.Gettys@ihs.gov.

VIII. Other Information

The Public Health Service strongly encourages all grant, cooperative agreement, and contract recipients to provide a smoke-free workplace and promote the non-use of all tobacco products. In addition, Public Law 103-227, the Pro-Children Act of 1994, prohibits smoking in certain facilities (or in some cases, any portion of the facility) in which regular or routine education, library, day care, health care, or early childhood development services are provided to children. This is consistent with the HHS mission to

protect and advance the physical and mental health of the American people.

P. Benjamin Smith,

Deputy Director, Indian Health Service.

[FR Doc. 2023-01150 Filed 1-20-23; 8:45 am]

BILLING CODE 4165-16-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; A Multi-omics Approach to Immune Responses in HIV Vaccination and Intervention (P01 Clinical Trial Not Allowed).

Date: February 15-16, 2023.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G21A, Rockville, MD 20892 (Virtual Meeting).

Contact Person: Dimitrios N. Vatakis, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G21A, Rockville, MD 20852, 301-761-7176, dimitrios.vatakis@nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: January 18, 2023.

Tyeshia M. Roberson-Curtis,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023-01195 Filed 1-20-23; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Microbiology, Infectious Diseases and AIDS Initial Review Group; Microbiology and Infectious Diseases Research Study Section Microbiology and Infectious Diseases Research Study Section.

Date: February 21-22, 2023.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G62, Rockville, MD 20892 (Virtual Meeting).

Contact Person: Eleazar Cohen, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G62A, Bethesda, MD 20892, (240) 669-5081, ecohen@niaid.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: January 18, 2023.

Tyeshia M. Roberson-Curtis,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023-01192 Filed 1-20-23; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; Stimulants and HIV: Addressing Contemporary and Recurring Epidemics.

Date: March 1, 2023.

Time: 2:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, National Institute on Drug Abuse, 301 North Stonestreet Avenue, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Marisa Srivareerat, Ph.D., Scientific Review Officer, Scientific Review Branch, Office of Extramural Policy, National Institute on Drug Abuse, NIH, 301 North Stonestreet Avenue, MSC 6021, Bethesda, MD 20892, (301) 435-1258, marisa.srivareerat@nih.gov.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; Reaching Equity at the Intersection of HIV and Substance Use.

Date: March 6, 2023.

Time: 11:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, National Institute on Drug Abuse, 301 North Stonestreet Avenue, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Marisa Srivareerat, Ph.D., Scientific Review Officer, Scientific Review Branch, Office of Extramural Policy, National Institute on Drug Abuse, NIH, 301 North Stonestreet Avenue, MSC 6021, Bethesda, MD 20892, (301) 435-1258, marisa.srivareerat@nih.gov.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; NIH Blueprint for Neuroscience Research: Computational Training in Neuroscience and Behavior.

Date: March 14, 2023.

Time: 11:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, National Institute on Drug Abuse, 301 North Stonestreet Avenue, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Soyoun Cho, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Research, National Institute on Drug Abuse, NIH, 301 North Stonestreet Avenue, MSC 6021, Bethesda, MD 20892, (301) 594-9460, Soyoun.cho@nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.277, Drug Abuse Scientist Development Award for Clinicians, Scientist

Development Awards, and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse and Addiction Research Programs, National Institutes of Health, HHS)

Dated: January 18, 2023.

Tyeshia M. Roberson-Curtis,
Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023-01191 Filed 1-20-23; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Microbiology, Infectious Diseases and AIDS Initial Review Group; Microbiology and Infectious Diseases B Research Study Section Microbiology and Infectious Diseases B Subcommittee.

Date: March 1-3, 2023.

Time: 11:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3F58, Rockville, MD 20892 (Virtual Meeting).

Contact Person: Mario Cerritelli, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, 5601 Fishers Lane, Room 3F58, Rockville, MD 20892, 240-669-5199, cerritem@mail.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: January 18, 2023.

Tyeshia M. Roberson-Curtis,
Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023-01193 Filed 1-20-23; 8:45 am]

BILLING CODE 4140-01-P

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Exemption From Historic Preservation Review for General Services Administration Routine Operations and Maintenance

AGENCY: Advisory Council on Historic Preservation.

ACTION: Approval of exemption.

SUMMARY: The Advisory Council on Historic Preservation has approved an exemption that relieves the General Services Administration from historic preservation review requirements under the National Historic Preservation Act for specified routine operations and maintenance activities.

DATES: The exemption went into effect on January 13, 2023.

FOR FURTHER INFORMATION CONTACT:

Laura Lavernia, (202) 517-0225, llavernia@achp.gov.

SUPPLEMENTARY INFORMATION: Section 106 of the National Historic Preservation Act (section 106) requires federal agencies to take into account the effects of projects, activities, or programs they carry out, license, or assist on historic properties (undertakings) and afford the Advisory Council on Historic Preservation (ACHP) a reasonable opportunity to comment with regard to such undertakings. Historic properties are those that are listed or have been determined eligible for listing in the National Register of Historic Places (NRHP).

The National Historic Preservation Act (NHPA) authorizes the ACHP to promulgate regulations for exempting undertakings "from any or all the requirements of" the NHPA. The section 106 implementing regulations, 36 CFR 800, detail the process for the approval of such exemptions.

In accordance with 36 CFR 800.14(c)(1), the ACHP may approve an exemption for an undertaking if it finds that: (i) the actions within the program or category would otherwise qualify as "undertakings" as defined in 36 CFR 800.16; (ii) the potential for effects of the undertakings within the program or category upon historic properties are foreseeable and likely to be minimal or not adverse; and (iii) exemption of the program or category is consistent with the purposes of the NHPA.

I. Background

General Services Administration (GSA) Use of 36 CFR 800.14 for Regional Routine Operations and Maintenance

In accordance with the regulations and processes outlined in 36 CFR

800.14, GSA has, since 1994, exercised the option under this provision to streamline section 106 compliance by exempting specified routine operations and maintenance activities from section 106 review through the development of regional programmatic agreements (Regional PAs) in accordance with 36 CFR 800.14(b). GSA's Regional PAs have been developed and negotiated in consultation with State Historic Preservation Offices (SHPO), Tribal Historic Preservation Officers (THPO), the ACHP, and others to improve the efficiency of consultation for undertakings that pose minimal or no adverse effect to historic properties.

GSA Regional Programmatic Agreements

GSA currently has four (4) executed Regional PAs in place among its eleven (11) regions: Southeast Sunbelt (Region 4), Rocky Mountain (Region 8), Pacific Rim (Region 9), and the National Capital (Region 11). GSA Regional Historic Preservation Officers (RHPOs) within these four regions have identified and defined, in consultation with SHPOs, THPOs, and the ACHP, routine operations and maintenance undertakings for exemption from section 106 review. Collectively, these agreements include twenty-two (22) states and apply to approximately half of GSA's historic property inventory.

GSA Proposed Use of 36 CFR 800.14 for National Routine Operations and Maintenance

Given GSA's comprehensive preservation policies, preservation personnel qualifications, widely recognized program, and decades-long track record of compliance, the ACHP recommended GSA pursue an exemption in accordance with 36 CFR 800.14(c) to further streamline and strengthen the agency's nationwide approach to the ongoing management of these activities. The exemption will supplement the extant Regional PAs and inform future agreements proposed as part of the agency's continued compliance excellence efforts. GSA worked closely with ACHP staff to outline and develop the exemption, establish parameters, and define routine operations and maintenance activities (see Appendix A of the text of the exemption below).

II. Exemption Structure and Implementation

The program alternative exempts GSA from the requirement of the section 106 review process for routine operations and maintenance activities (subpart B of the implementing regulations, as

codified in 36 CFR 800). Pursuant to 36 CFR 800.14(c)(1), section 106 exemptions must meet certain criteria: (i) The actions within the program or category would otherwise qualify as "undertakings," as defined in 800.16; (ii) The potential effects of the undertakings within the program or category upon historic properties are foreseeable and likely to be minimal or not adverse; and (iii) exemption of the program or category is consistent with the purposes of the NHPA.

Actions Within Exemption as Undertakings

The exemption applies to routine operations and maintenance activities implemented in accordance with the Secretary of the Interior's Standards for the Treatment of Historic Properties (Secretary's Standards) and conducted on historic property under the custody and control of GSA. The ACHP has determined that such operations and maintenance activities meet the definition of undertakings since they are carried out by a federal agency, GSA. This definition is tied to federal involvement in an activity or project, by either permitting, funding, or licensing. Additionally, routine operations and maintenance activities have the potential to impact the physical environment and therefore have the potential to cause effects.

Potential Effects Foreseeable and Likely To Be Minimal or Not Adverse

The effect of activities within the scope of the exemption are foreseeable and minimal or not adverse. The exemption defines routine operations and maintenance for GSA properties and, specifically for the purpose of section 106 compliance, to historic properties listed or determined eligible for listing in the NRHP. The ongoing routine operations and maintenance of historic properties contributes to their preservation.

The exemption abides by the definition of "Preservation" as a specific treatment—one of four approaches for historic properties—established by the Secretary's Standards. As indicated in 36 CFR 800.5, preservation treatments in accordance with the Secretary's Standards will not lead to adverse effects. Routine operations and maintenance activities exempted from section 106 review are specified in Appendix A of the exemption. These activities were compiled from the lists of activities excluded from section 106 review in GSA Regional PAs, and from the Secretary of the Interior's Standards for Preservation & Guidelines for Preserving Historic Buildings. The

inherent nature of these activities, combined with the professional qualifications of those performing and providing oversight for the conduct of such activities, is critical to ensuring that they are carried out in accordance with the Standards and Guidelines.

The NHPA, and section 106 regulations 36 CFR 800.2(a)(1), acknowledge that the care and custody of historic properties require specialized knowledge, training, and experience to adequately perform work that meets the Secretary's Standards. The Secretary of the Interior's Professional Qualification Standards (Qualification Standards) codify the minimum requirements that must be met for professional work concerning historic properties, and their application by qualified and highly experienced professionals will ensure the credibility of historic preservation within the larger public arena at the federal, state, and local levels, as well as in the private sector.

When an agency establishes and maintains a comprehensive nationwide stewardship program for the preservation of its historic properties and provides guidance to and oversight of those who manage work in them, routine operations and maintenance activities are carried out in a manner that eliminates or minimizes the potential for adverse effects, thereby meeting the "minimal or not adverse" effect standard for exemptions. To avoid adverse effects as defined in the section 106 regulations (36 CFR 800.5), the exemption ensures that the historic preservation staffing infrastructure at GSA, as set forth as policy in the GSA Order Procedures for Historic Properties (currently ADM 1020.3) and subsequent revisions (ADM) provides oversight by personnel exceeding the Qualification Standards. GSA's staffing infrastructure provides continual monitoring and management of historic properties and a system of checks and balances for routine operations and maintenance ensuring that work complies with the Secretary's Standards.

GSA's Federal Preservation Officer (FPO) leads GSA's agency-wide stewardship program, guides regional offices and the national headquarters, and acts as the Agency Official for purposes of section 106 compliance, among other duties. Along with the FPO, compliance and oversight of historic properties is managed by GSA Center for Historic Buildings staff and RHPOs in each of GSA's regions nationwide. The RHPO directs GSA's historic preservation program at the regional level and is responsible for coordinating day-to-day compliance with preservation laws, regulations,

orders, and directives. The RHPO is senior staff who acts as a liaison between the Regional Commissioner, the FPO, and state, local, and Tribal representatives. Per the standard position description, the RHPO must possess specialized knowledge of laws, regulations, and mastery of the field of historic preservation, including expert technical knowledge of architectural conservation and rehabilitation principles and practices. The ADM, states that “the RHPO must be organizationally positioned and given authority to lead and manage actively the regional historic preservation program and implement national preservation policies and initiatives.” section 106 compliance is only one of the roles of the RHPO, whose responsibility is comprehensive stewardship of the historic properties in their region. Working in concert with regional offices and the FPO, RHPOs provide technical assistance, along with program and policy guidance, to regional facility management staff, project managers, portfolio and leasing specialists, and administrators.

Consistency With the Purposes of the NHPA

The exemption is consistent with the intent of the NHPA. With respect to federal property, the NHPA fosters a spirit of stewardship for federal agency historic preservation programs administered by professionals who meet established Qualification Standards. The ACHP has determined the exemption will serve to reinforce the critical role of GSA’s preservation staff expertise and may encourage other federal agencies to increase their staffing, professional qualifications, and internal preservation policies.

III. Public Participation

In accordance with 36 CFR 800.14(c)(2), public participation regarding exemptions must be arranged on a level commensurate with the subject and scope of the exemption. Plans for public participation (consultation) for a proposed exemption are arranged by the proponent of the exemption. The ACHP introduced the exemption to its Federal Agency Programs Committee on June 28, 2022, and GSA briefed the ACHP at its Business Meeting on June 29, 2022. In accordance with 36 CFR 800.14(c)(3), GSA held two consultation meetings with SHPOs and other key stakeholders on July 28, 2022, and August 2, 2022. On August 9, 2022, GSA hosted a Tribal Listening Session with Tribal representatives, THPOs, and section 106 Coordinators. In total, 36 SHPOs, 32

THPOs, 3 Tribal representatives, the National Trust for Historic Preservation (NTHP) and the National Conference of State Historic Preservation Officers (NCSHPO) participated in consultation.

On October 14, 2022, GSA submitted the final proposed exemption to the ACHP. Per the regulations, ACHP must approve or reject the proposed exemption within thirty (30) days of receipt, provided the ACHP does not request additional information from the proponent. GSA’s proposal transmittal letter extended the regulatory timeframe to ninety (90) days, allowing for the ACHP to conduct Tribal Consultation.

Per 36 CFR 800.14(c), the ACHP drafted a Tribal Consultation Plan for the exemption and, with GSA, conducted a Tribal consultation meeting with Indian Tribes and Tribal and Native Hawaiian Organization (NHO) leaders that included thirty-six (36) participants, on November 7, 2022. On November 17, 2022, the ACHP published information regarding the exemption for public comment on its website. ACHP emailed notes from the Tribal consultation meeting along with a summary document of how consulting party comments were considered to Tribal and NHO leaders and representatives December 22, 2022.

The ACHP membership voted to approve the final exemption on January 13, 2023.

IV. Response to Public Comment

In response to its consultation on the proposed exemption, GSA received 215 separate comments from 16 SHPOs, the NTHP, and NCSHPO, and 3 from THPOs, Indian Tribes and Tribal and NHO representatives during early coordination. The exemption received widespread support from consulting parties and respondents contributed much in terms of suggesting refinements and in seeking clarification on details and aspects of the exemption, as well as the list of routine operations and maintenance activities defined in Appendix A. GSA considered all comments and revised the exemption accordingly. The final exemption and its Appendix A reflect a meaningful and productive consultation process, and a comprehensive exemption improved by the significant contributions of consulting parties. Summaries of responses to common and key comments are provided below.

Unanticipated Discoveries

An “Unanticipated Discoveries” clause has been added to the exemption text (Stipulation III). This clause addresses ground disturbing activities: archaeological concerns, human

remains, and sacred objects; and previously unidentified historic properties and character-defining features discovered during the implementation of an exempted activity. Stipulation III sets forth a procedure for GSA to initiate consultation with the appropriate parties, as necessary.

Application of Exempted Activities on Tribal Lands

GSA clarified in Stipulation II “Excluded from Exemption” that the exemption proposed by GSA does not apply to property on Tribal lands and does not involve any property under the custody and control of GSA identified as having religious or cultural significance to an Indian Tribe or NHO.

Application of the Standards for Preservation

Several questions were posed regarding GSA’s associating routine operations and maintenance activities at historic properties to the Secretary of the Interior’s Standards for Preservation (Preservation Standards). The Preservation Standards define “preservation” as “the act or process to sustain the integrity, form, and materials of a historic property. Work generally focuses on the ongoing maintenance and repair of historic materials and features rather than extensive replacement and new construction.” Maintenance, by this definition, is preservation. Preservation as a treatment focuses on the ongoing maintenance of a historic property and its distinctive features allowing for limited, in-kind replacement of original fabric and character-defining features and limited, sensitive upgrading of mechanical, electrical, and plumbing systems and other code-required work to make properties functional. Protection, maintenance, and repair are emphasized while replacement is minimized. GSA consulted with ACHP staff on the use of the Preservation Standards and the ACHP agreed these standards meet the criteria for establishing an exempted category per 36 CFR 800.14(c)(1).

Reference to Guides, Briefs, Bulletins and Standards

Comments related to activities outlined in Appendix A of the exemption suggested GSA specifically cite the relevant National Park Service Preservation Brief (NPS Brief) or qualify that the exempted activity will adhere to the Preservation Standards. The following comprehensive statement is provided in the introduction to Appendix A: “Routine operations and maintenance activities in historic properties under the custody and

control of GSA shall follow the Preservation Standards and be informed by National Park Service Technical Preservation Briefs (NPS Briefs) and supplemented by GSA's repository of technical documents including specifications and treatment guidelines developed by GSA materials conservation experts in accordance with these standards. At any time, should a scope of work deviate from the Preservation Standards, the RHPO will initiate the section 106 review process." Given that all activities overseen by GSA's RHPOs will be carried forth in compliance with the Preservation Standards, additional individual references would be redundant.

Mothballing as Preservation

Several comments expressed concern regarding the inclusion of mothballing as an exempted activity; specifically, regarding the potential for a property to remain indefinitely mothballed as a result of exempting this activity. GSA will adhere to the intent, protocols and recommendations specified in NPS Brief 31, "Mothballing Historic Buildings," which are temporary measures meant to be applied for a period up to ten (10) years. Mothballing is considered a preservation activity as it protects a structure until a use can be identified. Preservation as a treatment includes preliminary measures to protect and stabilize the property. More specifically, mothballing is described in Standard 1 of the Preservation Standards as "Where a treatment and use have not been identified, a property will be protected and, if necessary, stabilized until additional work may be undertaken." If mothballing of a specific property is anticipated to extend beyond a period of ten (10) years, standard section 106 review will be initiated by the GSA RHPO.

Reporting Requirement

Several consulting parties requested consideration of an annual reporting requirement. The ACHP staff confirmed that reporting is inconsistent with the intent of an exemption as a program alternative, which exempts activities that have minimal or no effects to historic properties. GSA will report to the ACHP on the exemption's use, application, and impact on streamlining the effectiveness and efficiency of section 106 compliance in accordance with Executive Order 13287 and its section 3 triennial Federal Property Stewardship Report requirement.

GSA Section 110 Stewardship

Several SHPOs inquired as to how GSA determines which properties are

eligible and whether or not the activity to be performed would affect the character-defining features or spaces that contribute to the significance of the property. GSA has an effective and nationally recognized identification, evaluation, and documentation program. GSA section 110 stewardship policy practice is to begin assessing properties 40 years post construction to ensure all considerations have been given and determined in advance of the property reaching 50 years of age. GSA's determinations of eligibility (DOEs) are reviewed by and concurred upon by SHPOs. GSA's RHPOs, all exceeding the Qualification Standards, possess the knowledge, skill, and expertise necessary to responsibly and accurately determine whether or not an activity will affect character-defining features and if section 106 review must be initiated. GSA internal planning documents are prepared in accordance with NHPA section 110 and, as confirmed by the ACHP staff, do not require concurrence. GSA has further addressed this comment by clarifying in Stipulation II "Excluded from Exemption" that the exemption would not impact or alter GSA established section 110 responsibilities or practice.

Applicability of Exemption to Fine Arts Program

Clarification was requested as to the applicability of the exemption and specific maintenance activities to murals and other fine arts features integral to many GSA historic properties. GSA clarified in section II "Excluded from Exemption" that maintenance, preservation, and conservation of fine arts works at historic properties are governed by the Policies & Procedures of GSA's Fine Arts Program (<https://www.gsa.gov/fine-arts>) and are not covered by the exemption.

Applicability of Exemption to National Historic Landmarks (NHLs)

The applicability of the exemption to NHLs was questioned by several consulting parties. GSA recognizes the special importance of NHLs and exercises particular care in the operations and maintenance of these highly significant properties. GSA also recognizes that the Secretary's Standards do not differentiate between preservation of NHLs and preservation of other historic properties. The exemption will apply to all GSA properties determined eligible for or listed in the NRHP, regardless of their level of significance. In the event that an activity proposed exceeds the definition or scope set forth in the exemption, the

RHPO will initiate section 106 consultation and, as is standard practice for GSA, invite the NPS to participate as a consulting party.

Definitions and Clarification of Terms

Based on comments requesting clarification of terms, the exemption "Definitions" section has been modified to reference definitions in 36 CFR 800, and amended to add definitions for additional, specific terms, as requested.

V. Text of the Exemption

The full text of the exemption is reproduced below:

U.S. General Services Administration Section 106 Exemption for Routine Operations and Maintenance

I. Exemption From Section 106 Review Requirements

Except as noted in section II, and so long as GSA maintains its national preservation program and personnel infrastructure, as specified in GSA policy *Procedures for Historic Properties*, ADM 1020.3 (or subsequent revisions) (ADM), GSA is exempt from the section 106 review process, as outlined in 36 CFR 800 Subpart B, for routine operations and maintenance activities, as defined in Appendix A, in historic properties under the jurisdiction, custody, and control of GSA, unless GSA determines that, per 36 CFR 800.14(c)(6), there are circumstances under which an exempted activity should be reviewed under section 106.

II. Excluded From Exemption

The following items do not constitute exempted categories and are excluded from the exemption:

(a) The exemption does not affect GSA's section 110 responsibilities, as set forth in the NHPA. GSA will maintain its existing identification, evaluation, and documentation efforts in accordance with the ADM.

(b) The exemption does not apply to activities performed according to the *Secretary of the Interior's Standards for Restoration, Rehabilitation, or Reconstruction of Historic Properties*. Exempted activities are not to include substantial or extensive replacements of character-defining features and are not intended for the exemption of reconstruction or restoration of missing character-defining features. If the continued use of a property requires extensive replacement, alterations, additions or any demolition, the required treatments are not routine operations and maintenance activities covered under this exemption. The exemption does not apply to changes in

use for a property, as adaptive use is considered under Rehabilitation.

(c) Exempted activities must avoid extant, documented archaeological resources. Archaeological sites must be preserved and maintained in place. If avoidance is not feasible or possible, the RHPO will initiate section 106 Review under Subpart B of 36 CFR 800.

(d) Maintenance, preservation, and conservation of fine arts works at historic properties are governed by GSA's *Policies & Procedures of the Fine Arts Program* and are not covered by this exemption.

(e) This exemption does not apply on Tribal lands and does not involve any property under the custody and control of GSA identified as having religious and/or cultural significance to an Indian Tribe or NHO.

(f) As per 36 CFR 800.14(c)(6), if an RHPO determines that there are special circumstances which warrant section 106 review for an activity otherwise exempted, the RHPO will initiate section 106 Review under Subpart B of 36 CFR 800.

III. Unanticipated Discoveries

Ground Disturbing Activities

Ground disturbing activities may have the potential to affect historic properties through unanticipated discoveries. Where previously undetected historic or cultural resources are discovered during implementation of exempted activities, GSA will proceed with one of the following:

a. If a GSA Regional PA is in place to govern the unanticipated discovery, GSA shall follow the procedures outlined therein.

b. For GSA regions without a Regional PA, if an unanticipated discovery is made during the implementation of an exempted activity, at any stage, work will stop immediately. The RHPO shall be notified within twenty-four (24) hours and the RHPO shall inform the corresponding SHPO/THPO, any Indian Tribe or NHO that may attach religious and/or cultural significance to the property, and the ACHP of the discovery within forty-eight (48) hours. Unanticipated discoveries will be handled as outlined in 36 CFR 800.13(b).

Treatment of Human Remains and Sacred Objects

If human remains, funerary objects, sacred objects, or objects of cultural patrimony are discovered at any time during the implementation of any exempted activity, work shall stop immediately within thirty (30) meters of the location of the discovery, and any

human remains encountered during the undertaking will be given sensitive and respectful treatment. GSA shall implement one of the above provisions set forth for unanticipated discoveries. Human remains will be provided with security until they are removed. The remains will be carefully covered and secured to protect them from any degradation, inappropriate observation, or inappropriate photography. GSA shall follow the applicable provisions of the Native American Graves Protection and Repatriation Act (NAGPRA, 25 U.S.C. 3001).

If a property discovered has not been previously included in or determined eligible for the NHRP and/or provisions for its treatment are not contained in an approved archaeological treatment plan, GSA may assume that the property is eligible for inclusion in the NHRP for purposes of this exemption.

IV. Amendments

The terms of the exemption may be amended by the ACHP membership in a manner consistent with 36 CFR 800.14(c)(1). The ACHP shall first consult with GSA and other parties, as appropriate. The ACHP will publish notice in the **Federal Register** to that effect within thirty (30) days after its decision to amend the exemption and will notify consulting parties of any amendments ACHP will post the final, adopted version of the exemption on its website.

V. Termination

The ACHP may terminate the exemption at any time in accordance with 36 CFR 800.14(c)(7).

VI. Definitions

The exemption adopts definitions in 36 CFR 800.16. In addition, the following additional definitions shall apply to this exemption:

(a) "Character-defining features" means the visual and physical aspects that comprise the appearance and individually and collectively contribute to the significance of the historic property.

(b) "In-kind" means the repair or replacement of a character-defining feature or item with one that meets its design specifications in the same way, producing the same appearance. Repair or replacement with the same material or new material that matches the historic material in type, design, dimension, texture, detailing, and appearance.

(c) "Maintenance" means the "activities directed toward keeping fixed assets in an acceptable condition. Activities include preventative

maintenance; replacement of parts, systems, or components; and other activities needed to preserve or maintain the asset. Maintenance and repairs, as distinguished from capital improvements, exclude activities directed towards expanding the capacity of an asset or otherwise upgrading it." (*Federal Management Regulation, Title 41 Public Contracts and Property Management, Part 102-74, entitled "Facility Management."*)

(d) "Preservation" means the act or process of applying measures necessary to sustain the existing form, integrity, and materials of an historic property. Work, including preliminary measures to protect and stabilize the property, generally focuses upon the ongoing maintenance and repair of historic materials and features rather than extensive replacement and new construction. New exterior additions are not within the scope of this treatment; however, the limited and sensitive upgrading of mechanical, electrical, and plumbing systems and other code-required work to make properties functional is appropriate within a preservation project. Preservation is a distinct treatment for historic properties found under the *Secretary's Standards*, codified in 36 CFR 68.

Appendix A—U.S. General Services Administration (GSA) Routine Operations and Maintenance Activities Exempted From Section 106 Review

The following are activities exempted from section 106 review as part of GSA's section 106 Routine Operations and Maintenance Exemption approved by the Advisory Council on Historic Preservation (ACHP) on January 13, 2023, in accordance with 36 CFR 800.14(c).

The activities are culled from appendices of activities excluded from section 106 review in GSA Regional Programmatic Agreements, from preservation activities recognized in the *Secretary of the Interior's Standards for the Treatment of Historic Properties* (*Secretary's Standards*) codified in 36 CFR part 68 and their respective *Guidelines*, and through section 106 consultation carried forth for this exemption with State Historic Preservation Officers, Tribal Historic Preservation Officers, Indian Tribes, Tribal and Native Hawaiian Organization representatives, the National Trust for Historic Preservation, and the National Conference of State Historic Preservation Officers.

Routine operations and maintenance activities in historic properties under the custody and control of GSA shall follow the *Secretary of the Interior's*

Standards for Preservation (Preservation Standards) and accompanying *Guidelines*, and be informed by *National Park Service Preservation Briefs (NPS Briefs)* supplemented by GSA's repository of technical documentation including specifications and treatment guidelines developed by GSA materials conservation experts in accordance with these standards. Preservation as a treatment focuses on the ongoing maintenance of a historic property and its distinctive features allowing for limited, in-kind replacement of original fabric and character-defining features and limited, sensitive upgrading of mechanical, electrical, and plumbing systems and other code-required work to make properties functional. Protection, maintenance, and repair are emphasized while replacement is minimized. At any time, should a scope of work deviate from the *Preservation Standards*, the RHPO will initiate the section 106 review process.

Maintenance—Landscape and Grounds Maintenance General

- Minimal ground disturbing activity (one meter or less wide and half a meter or less deep) is permitted on GSA property that has been surveyed and previously determined to have no eligible historic landscapes or archaeological resources.
- Pressure washing of exterior envelope and surfaces with low pressure (150–200 PSI) water and mild detergents.
- Cleaning hard surface areas: sidewalks, brick areas, light poles, platforms, docks, driveways, ramps, moats.
- Graffiti removal.
- Stain removal.
- Snow and Ice Removal; including areas requiring heavy equipment.
- Integrated Pest Management (IPM; as specified in 7 U.S.C. 136r–1).

Exterior Security

- Repair and upgrade of security camera systems in existing locations.
- Installation of new security camera systems in landscapes, attached to adjacent poles, or attached to parapets or roofs by non-damaging installation methods.
- Installation of temporary, removable barriers for security or construction purposes, which do not require ground disturbance and are associated with a defined timeframe relating to a specific event or repair and/or construction project.

Landscaping and Landscape Architecture

- Resurfacing of existing paved surfaces, including pavement repair and replacement.
- Road maintenance and repaving which does not include road widening or deepening of the road profile.
- Repair and replacement of streetlights, traffic signals, traffic signs.
- Repair or replacement of existing park equipment, furniture, signage, walkways.
- Limited replacement of historic landscape elements that are deteriorated beyond repair.
- Routine maintenance of fountains and water features.

Utilities

- Installation of generators that are placed either inside buildings or existing ancillary structures, or outside occupying an area less than 50 square feet and located on a secondary elevation or with limited visibility from the primary viewshed of the building they serve.
- Above-ground utilities: Repair or replacement of existing wires, anchors, crossarms, transformers, and other miscellaneous hardware on existing overhead lines.
- Underground Utilities: Repair or replacement of existing water, sewer, natural gas, electric or telecommunication lines and in-place repair of septic systems if it occurs in previously disturbed soils (previously subjected to construction excavation and filling) in the existing trench. Directional boring method of installing new/replacement utility lines within previously disturbed soils (previously subjected to construction excavation and filling).

Maintenance—Facility Management Services

- Non-destructive or concealed diagnostic health and safety activities or testing for hazardous materials (*i.e.*: asbestos, radon, lead, lead pipes, buried fuel tanks, and asbestos containing materials).
- Removal of hazardous materials.

Elevator Inspection & Maintenance

- Installation of code-required signage and hardware.
- Replacement of non-historic elevator cabs.
- System-wide upgrades to mechanical and electrical cab interiors.

Fire Alarm System Installation: Preventative and Servicing

- Fire alarm detection/suppression systems maintenance, where the following can be met:
- New alarm pull stations that are installed on a freestanding pedestal or on a wall without penetrating materials that contribute to the significance of the property. Installation of wiring where existing finishes will not be impacted.
- Installation of automated building systems that replace existing electrical components.

Mechanical & Building Systems

- Repair and replacement: HVAC maintenance, boilers, chillers, energy management, electrical, life safety, telecommunications systems.
- Maintenance of water distribution systems.
- Electrical Maintenance: replacement of wire within existing conduits, replacement of fuses, electrical boxes, outlets, and establishment of additional circuits within existing boxes.
- Maintenance of existing plumbing and pipefitting.

Interior Surfaces

- Interior repainting of previously painted surfaces and new drywall.
- Minor security, communications, or video improvements, which may include locks, card readers, and/or cameras.

Architectural Barriers Act Accessibility Standard (ABAAS) Upgrades

- Reasonable accommodations that do not impact significant finishes including restroom features (grab bars, fixtures, dispensers, bathroom stalls), braille signage, ABAAS-compliant interior door handles, automatic flushing and door opening mechanisms.

Preservation—Building Enclosure

Roofs and Parapets

- Re-roofing of non-visible flat roofs.
- Repair or replacement (if beyond repair) of roofing materials and components (rafters, decking, fascia, soffits, gutters, downspouts, tiles or panels). This does *not* include re-roofing of entire roof or changes to roof configuration or pitch.
- Repair or replacement of parapet backup walls, roofing, flashing, termination bars, and through-wall flashing that cannot be seen from the public right-of-way.
- Installation of new or reflective roof coatings on a flat-roofed building with

a parapet, such that the roofing material is *not* visible from the public right-of-way.

- Installation of gutter guards/covers over existing gutters in a manner that respects size and profile.
- Installation of protective roof coverings while working on other projects and stabilizing damaged roof areas before commencing maintenance or preservation work.
- Fastening roof elements using corrosion-resistant roof fasteners (nails and clips).
- Installation of photovoltaic equipment and supporting infrastructure on roof top when not visible from the public right-of-way.
- Skylights: maintenance, preservation and repair of skylights.
- Maintenance, preservation and repair of decorative features on roofs.
- Repair or replacement of existing rooftop-mounted equipment such as HVAC components, tie-offs, ductwork, window-washing equipment, and lightning protection equipment.

Windows and Doors

- Reglazing, caulking, weatherstripping, re-puttying windows and doors, and repairs to windows and doors, not including window or door replacement.
- Protecting wood or metal window frames and trim by cleaning, paint removal and reapplication of protective coating systems. Replacing broken or missing operable components.
- Installation of interior storm windows.

Curtain Walls

- Repairs and limited replacement of elements damaged or degraded beyond practicable repair of wall assemblies or exterior cladding when the color, size, reflectivity, materials, and visual patterns are unaltered.

Envelope

- Cleaning brick and stone (masonry) and stucco exteriors with low pressure wash (150–200 PSI), natural bristle brushes, and mild detergents.
- Re-pointing exterior masonry, ensuring correct mortar testing and match for composition, color, and appropriate compressive strength for the historic masonry assembly being repointed, and with appropriate means and tools.
- Masonry or stucco repairs.
- Refinishing and varnishing of exterior wood.
- Limited replacement of missing portions of exterior wood and

consolidation of deteriorated portions of exterior wood with putties and repainting.

- Mothballing for a period no longer than ten (10) years.

Exterior Elements

- Repair of exterior metal elements including balconies and stair handrails.
- Rewiring and restoration of character defining ornamental lighting fixtures.
- Re-lamping light fixtures with energy-efficient lamps.
- Masonry repairs of stairs, wing walls, plazas, ramps, and site furniture.
- Cleaning and repointing of brick and stone (masonry) exterior elements as listed above in “Envelope” section.
- Repairs or limited replacements of character-defining decorative features.

Preservation—Interior Spaces, Features, Finishes

Windows and Doors

- Repair and replacement of missing or damaged window and door finish hardware.
- Replacement of removable interior window film and installation of solar screens.
- Installation and replacement of window treatments.

Finishes

- Plaster repair: repair of cracks, missing plastered areas, re-plastering of non-decorative walls that are plastered or were formerly plastered, which cannot be repaired in their present state.
- Select repair of small portions of decorative plaster elements where there are visible cracks or chips.
- Interior wood refinishing and revarnishing.
- Floor refinishing.
- Carpeting installation.
- Replacement of floors, walls, secondary stairs, ceilings and/or trim.
- Installation or replacement of non-character-defining lighting.
- Rewiring and preservation of character-defining, ornamental lighting fixtures.
- Re-lamping light fixtures with energy-efficient lamps.
- Removal and replacement of building contents including furniture, movable partitions, and cabinetry and equipment and any other non-character-defining moveable items.

(END OF DOCUMENT)

Authority: 36 CFR 800.14(c).

Dated: January 18, 2023.

Javier Marqués,
General Counsel.

[FR Doc. 2023–01188 Filed 1–20–23; 8:45 am]

BILLING CODE 4310-K6-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[BLM_WY_FRN_M04500169025]

Filing of Plats of Survey, Wyoming and Nebraska

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of official filing.

SUMMARY: The Bureau of Land Management (BLM) is scheduled to file plats of survey 30 calendar days from the date of this publication in the BLM Wyoming State Office, Cheyenne, Wyoming. These surveys, which were executed at the request of the U.S. Forest Service and the BLM are necessary for the management of these lands.

DATES: Protests must be received by the BLM prior to the scheduled date of official filing by February 22, 2023.

ADDRESSES: You may submit written protests to the Wyoming State Director at WY926, Bureau of Land Management, 5353 Yellowstone Road, Cheyenne, Wyoming 82009.

FOR FURTHER INFORMATION CONTACT: Sonja Sparks, BLM Wyoming Chief Cadastral Surveyor, by telephone at 307 775–6225 or by email at s75spark@blm.gov. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service at 1–800–877–8339 to contact this office during normal business hours. The Service is available 24 hours a day, 7 days a week, to leave a message or question with this office. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The plats of survey of the following described lands are scheduled to be officially filed in the BLM Wyoming State Office, Cheyenne, Wyoming.

Sixth Principal Meridian, Wyoming

- T. 49 N., R. 93 W., Group No. WY1036, dependent resurvey and survey, accepted October 14, 2022
- T. 15 N., R. 75 W., Group No. WY1038, dependent resurvey and survey, accepted November 18, 2022
- T. 42 N., R. 67 W., Group No. WY1039, dependent resurvey and survey, accepted November 18, 2022
- T. 16 N., R. 80 W., Group No. WY1042, dependent resurvey, accepted January 4, 2023
- T. 18 N., R. 80 W., Group No. WY1044, dependent resurvey and survey, accepted January 4, 2023

Sixth Principal Meridian, Nebraska

- T. 30 N., R. 50 W., Group No. NE0191, dependent resurvey and survey,

accepted October 19, 2022
T. 31 N., R. 50 W., Group No. NE0191,
dependent resurvey and survey,
accepted October 19, 2022

A person or party who wishes to protest one or more plats of survey identified in this notice must file a written notice of protest within 30 calendar days from the date of this publication with the Wyoming State Director at the above address. Any notice of protest received after the scheduled date of official filing will be untimely and will not be considered. A written statement of reasons in support of a protest, if not filed with the notice of protest, must be filed with the State Director within 30 calendar days after the notice of protest is filed. If a notice of protest against a plat of survey is received prior to the scheduled date of official filing, the official filing of the plat of survey identified in the notice of protest will be stayed pending consideration of the protest. A plat of survey will not be officially filed until the next business day following dismissal or resolution of all protests of the plat.

Before including your address, phone number, email address, or other personal identifying information in your protest, you should be aware that your entire protest—including your personal identifying information—may be made publicly available at any time. While you can ask us to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Copies of the preceding described plat and field notes are available to the public at a cost of \$4.20 per plat and \$0.15 per page of field notes. Requests can be made to blm_wy_survey_records@blm.gov or by telephone at 307-775-6222.

(Authority: 43 U.S.C., chapter 3)

Dated: January 12, 2023.

Sonja S. Sparks,
Chief Cadastral Surveyor of Wyoming and
Nebraska.

[FR Doc. 2023-01165 Filed 1-20-23; 8:45 am]

BILLING CODE 4331-26-P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS-IMR-PETR-34690;
PS.SIMLA0106.00.1]

Minor Boundary Revision at Petroglyph National Monument

AGENCY: National Park Service, Interior.

ACTION: Notification of boundary revision.

SUMMARY: The boundary of Petroglyph National Monument is modified to exclude four parcels of land from the monument boundary which contain private homes and property, totaling 8.37 acres and to include two parcels of land containing 3.78 acres, located in Bernalillo County, New Mexico. Upon publication of the Notice, the National Park Service will accept, by donation, a perpetual easement (3.47 acres) from Albuquerque Public Schools (APS). The other tract to be included in the boundary (0.31 acres) is already federally owned.

DATES: The effective date of this boundary revision is January 23, 2023.

ADDRESSES: The map depicting this boundary revision is available for inspection at the following locations: National Park Service, Interior Regions 6, 7, & 8, Land Resources Program Center, 12795 West Alameda Parkway, Denver, Colorado 80228 and National Park Service, Department of the Interior, 1849 C Street NW, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Regional Realty Officer William Morgan, National Park Service, Interior Regions 6, 7, & 8 Land Resources Program Center, 12795 West Alameda Parkway, Denver, Colorado 80228, telephone (303) 969-2610, william_morgan@nps.gov.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, pursuant to Public Law 101-313, the boundary of Petroglyph National Monument is modified to exclude four (4) tracts totaling 8.37 acres of land and expanded to include two tracts (2) totaling approximately 3.78 acres of adjacent unimproved land. The boundary revision is depicted on Map No. 354/179645, dated September 2022.

Public Law 101-313 section 102(c) authorizes minor revisions of the boundary, after completion of the general management plan for the monument, by publishing a revised map or other boundary description in the **Federal Register**. The general management plan for Petroglyph National Monument was completed in 1996. This boundary revision will ensure the preservation and protection of the Monument's historic and cultural landscape resources and provide public access into the Petroglyph National Monument.

Katharine Hammond,
Regional Director (Acting), Interior Regions
6, 7, & 8.

[FR Doc. 2023-01106 Filed 1-20-23; 8:45 am]

BILLING CODE 4312-52-P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-1309]

Certain Core Orientation Systems, Products Containing Core Orientation Systems, Components Thereof, and Methods of Using the Same; Notice of a Commission Determination Not To Review an Initial Determination Terminating the Investigation Based on a Consent Order Stipulation; Issuance of a Consent Order; Termination of the Investigation

AGENCY: 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. 31) of the presiding administrative law judge ("ALJ") granting a joint motion to terminate the investigation as to the remaining respondents based on a consent order stipulation. The Commission has entered a consent order against respondents Boart Longyear Group Ltd.; Boart Longyear Limited; Boart Longyear Company; Boart Longyear Manufacturing and Distribution Inc.; Longyear TM, Inc.; Globaltech Corporation Pty Ltd.; Globaltech Pty Ltd.; and International Directional Services LLC (collectively, "Remaining Respondents"). The investigation is terminated in its entirety.

FOR FURTHER INFORMATION CONTACT: Cathy Chen, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone 202-205-2392. 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 April 5, 2022, based on a complaint filed on behalf of Australian Mud Company Pty Ltd. of Australia and Reflex USA LLC of Chandler, AZ (collectively, "Complainants"). 87 FR 19704 (Apr. 5, 2022). The complaint, as

supplemented, alleged 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 core orientation systems, products containing core orientation systems, components thereof, and methods of using the same by reason of infringement of claims 16–18, 22, and 23 of U.S. Patent No. 7,584,055. *Id.* The complaint further alleged that an industry in the United States exists or is in the process of being established. *Id.* The Commission's notice of investigation named as respondents: Boart Longyear Group Ltd. of West Valley City, UT; Boart Longyear Limited of Australia; Boart Longyear Company of West Valley City, UT; Boart Longyear Manufacturing and Distribution Inc. of West Valley City, UT; Longyear TM, Inc. of West Valley City, UT; Globaltech Corporation Pty Ltd. of Australia; Globaltech Pty Ltd. of Australia; Granite Construction Incorporated of Watsonville, CA; and International Directional Services LLC of Chandler, AZ. The Office of Unfair Import Investigations ("OUII") is also named as a party in this investigation. *Id.* at 19704–05.

On December 14, 2022, the Commission determined not to review an ID (Order No. 28) granting a joint motion to terminate respondent Granite Construction Incorporated from the investigation based on withdrawal of the complaint.

On November 30, 2022, Complainants and the Remaining Respondents jointly moved to terminate and stay the investigation based on a consent order stipulation. The joint motion included a consent order stipulation, a proposed consent order, and a settlement agreement. OUII filed a response supporting the joint motion.

On December 19, 2022, the ALJ issued an ID (Order No. 31) granting the joint motion to terminate the investigation with respect to the Remaining Respondents based on the entry of a consent order. The ID found that the consent order stipulation and proposed consent order conform with Commission Rule 210.21(c)(3) and (4) (19 CFR 210.21(c)(3) and (4)). The ID also found that termination of the investigation with respect to the Remaining Respondents would not be contrary to the public interest. No petitions for review were filed.

The Commission has determined not to review the subject ID and to issue a consent order against respondents Boart Longyear Group Ltd.; Boart Longyear Limited; Boart Longyear Company;

Boart Longyear Manufacturing and Distribution Inc.; Longyear TM, Inc.; Globaltech Corporation Pty Ltd.; Globaltech Pty Ltd.; and International Directional Services LLC. The investigation is terminated in its entirety.

The Commission vote for this determination took place on January 17, 2023.

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: January 17, 2023.

Katherine Hiner,

Acting Secretary to the Commission.

[FR Doc. 2023–01105 Filed 1–20–23; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Antitrust Division

Granting of Requests for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**. The following transactions were granted early termination—on the date indicated—of the waiting period provided by law and the premerger notification rules. The listing includes the transaction number and the parties to the transaction. The Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice made the grants. Neither agency intends to take any action with respect to this proposed acquisitions during the applicable waiting period.

EARLY TERMINATION GRANTED

11/04/2022		
20221286	G	Flatlake Privatshftung; Global Tungsten & Powders Corp.; Allan C. Bir, Jr.; Mi-Tech Tungsten Metals, LLC B6 Manufacturing, LLC.
01/05/2023		
20222859	G	Semtech Corporation; 13548597 Canada, Inc.; Sierra Wireless, Inc.

Suzanne Morris,

Deputy Directory of Civil Enforcement Operations, Antitrust Division, Department of Justice.

[FR Doc. 2023–01198 Filed 1–20–23; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–1134]

Bulk Manufacturer of Controlled Substances Application: Janssen Pharmaceuticals Inc.

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: Janssen Pharmaceuticals Inc., has applied to be registered as a bulk manufacturer of basic class(es) of controlled substance(s). Refer to Supplementary Information listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants therefore, may submit electronic comments on or objections to the issuance of the proposed registration on or before March 24, 2023. Such persons may also file a written request for a hearing on the application on or before March 24, 2023.

ADDRESSES: The Drug Enforcement Administration requires that all comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to <https://www.regulations.gov> and follow the online instructions at that site for submitting comments. Upon submission of your comment, you will receive a Comment Tracking Number. Please be aware that submitted comments are not instantaneously available for public

view on <https://www.regulations.gov>. If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.33(a), this is notice that on December 1, 2022, Janssen Pharmaceuticals Inc., 1440 Olympic Drive, Buildings 1–5 & 7–14, Athens, Georgia 30601–1645, applied to be registered as a bulk manufacturer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Methylphenidate	1724	II
Hydromorphone	9150	II
Hydrocodone	9193	II
Oripavine	9330	II
Thebaine	9333	II
Tapentadol	9780	II

The company plans to bulk manufacture the listed controlled substances for the internal use intermediates or for sale to its customers. No other activities for these drug codes are authorized for this registration.

Matthew Strait,

Deputy Assistant Administrator.

[FR Doc. 2023–01205 Filed 1–20–23; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–1133]

Importer of Controlled Substances Application: Mylan Pharmaceuticals, Inc.

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: Mylan Pharmaceuticals, Inc. has applied to be registered as an importer of basic class(es) of controlled substance(s). Refer to **SUPPLEMENTARY INFORMATION** listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants therefore, may submit electronic comments on or objections to the issuance of the proposed registration on or before February 22, 2023. Such persons may also file a written request for a hearing on the application on or before February 22, 2023.

ADDRESSES: The Drug Enforcement Administration requires that all comments be submitted electronically

through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to <https://www.regulations.gov> and follow the online instructions at that site for submitting comments. Upon submission of your comment, you will receive a Comment Tracking Number. Please be aware that submitted comments are not instantaneously available for public view on <https://www.regulations.gov>. If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment. All requests for a hearing must be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/OALJ, 8701 Morrisette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA **Federal Register** Representative/DPW, 8701 Morrisette Drive, Springfield, Virginia 22152. All requests for a hearing should also be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrisette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.34(a), this is notice that on December 6, 2022, Mylan Pharmaceuticals, Inc., 2898 Manufacturers Road, Greensboro, North Carolina 27406–4600, applied to be registered as an importer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Remifentanyl	9739	II

The company plans to import the above listed controlled substance in finished dosage form for commercial distribution to its customers. No other activities for these drug codes are authorized for this registration.

Approval of permit applications will occur only when the registrant's business activity is consistent with what is authorized under 21 U.S.C. 952(a)(2). Authorization will not extend to the import of Food and Drug Administration-approved or non-approved finished dosage forms for commercial sale.

Matthew Strait,

Deputy Assistant Administrator.

[FR Doc. 2023–01208 Filed 1–20–23; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–1129]

Bulk Manufacturer of Controlled Substances Application: Siegfried USA, LLC

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: Siegfried USA, LLC has applied to be registered as a bulk manufacturer of basic class(es) of controlled substance(s). Refer to **SUPPLEMENTARY INFORMATION** listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants therefore, may submit electronic comments on or objections to the issuance of the proposed registration on or before March 24, 2023. Such persons may also file a written request for a hearing on the application on or before March 24, 2023.

ADDRESSES: The Drug Enforcement Administration requires that all comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to <https://www.regulations.gov> and follow the online instructions at that site for submitting comments. Upon submission of your comment, you will receive a Comment Tracking Number. Please be aware that submitted comments are not instantaneously available for public view on <https://www.regulations.gov>. If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.33(a), this is notice that on November 8, 2022, Siegfried USA, LLC, 33 Industrial Park Road, Pennsville, New Jersey 08070–3244, applied to be registered as a bulk manufacturer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Gamma Hydroxybutyric Acid ..	2010	I
Noroxymorphone	9145	I
Hydromorphone	9301	I
Amphetamine	1100	II
Lisdexamfetamine	1205	II
Methylphenidate	1724	II
Amobarbital	2125	II
Pentobarbital	2270	II
Secobarbital	2315	II
Codeine	9050	II
Oxycodone	9143	II

Controlled substance	Drug code	Schedule
Hydromorphone	9150	II
Hydrocodone	9193	II
Methadone	9250	II
Methadone intermediate	9254	II
Morphine	9300	II
Oripavine	9330	II
Thebaine	9333	II
Opium tincture	9630	II
Oxymorphone	9652	II
Tapentadol	9780	II

The company plans to bulk manufacture the listed controlled substances in bulk for sale to its customers. No other activities for these drug codes are authorized for this registration.

Matthew Strait,

Deputy Assistant Administrator.

[FR Doc. 2023-01199 Filed 1-20-23; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA-XXX]

Bulk Manufacturer of Controlled Substances Application: Maridose LLC

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: Maridose LLC has applied to be registered as a bulk manufacturer of basic class(es) of controlled substance(s). Refer to **SUPPLEMENTARY INFORMATION** listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants therefore, may submit electronic comments on or objections to the issuance of the proposed registration on or before March 24, 2023. Such persons may also file a written request for a hearing on the application on or before March 24, 2023.

ADDRESSES: The Drug Enforcement Administration requires that all comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to <https://www.regulations.gov> and follow the online instructions at that site for submitting comments. Upon submission of your comment, you will receive a Comment Tracking Number. Please be aware that submitted comments are not instantaneously available for public view on <https://www.regulations.gov>. If you have received a Comment Tracking Number, your comment has been

successfully submitted and there is no need to resubmit the same comment.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.33(a), this is notice that on November 30, 2022, Maridose LLC, 74 Orion Street, Brunswick, Maine 04011, applied to be registered as a bulk manufacturer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Marihuana Extract	7350	I
Marihuana	7360	I
Tetrahydrocannabinols	7370	I

The company plans to bulk manufacture the listed controlled substances to supply to the Drug Enforcement Administration-registered researchers for their approval studies. No other activities for these drug codes are authorized for this registration.

Matthew Strait,

Deputy Assistant Administrator.

[FR Doc. 2023-01203 Filed 1-20-23; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA-1130]

Importer of Controlled Substances Application: Janssen Pharmaceuticals Inc.

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: Janssen Pharmaceuticals Inc. has applied to be registered as an importer of basic class(es) of controlled substance(s). Refer to **SUPPLEMENTARY INFORMATION** listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants therefore, may submit electronic comments on or objections to the issuance of the proposed registration on or before February 22, 2023. Such persons may also file a written request for a hearing on the application on or before February 22, 2023.

ADDRESSES: The Drug Enforcement Administration requires that all comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to <https://www.regulations.gov> and follow the online instructions at that site for

submitting comments. Upon submission of your comment, you will receive a Comment Tracking Number. Please be aware that submitted comments are not instantaneously available for public view on <https://www.regulations.gov>. If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment. All requests for a hearing must be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/OALJ, 8701 Morrisette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DPW, 8701 Morrisette Drive, Springfield, Virginia 22152. All requests for a hearing should also be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrisette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.34(a), this is notice that on December 1, 2022, Janssen Pharmaceuticals Inc., 1440 Olympic Drive, Buildings 1-5 & 7-14, Athens, Georgia 30601-1645, applied to be registered as an importer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Methylphenidate	1724	II
Thebaine	9333	II
Poppy Straw Concentrate.	9670	II
Tapentadol	9780	II

The company plans to import intermediates classified under Tapentadol (9780) and Thebaine (9333) for further manufacturing to the controlled substances Tapentadol and Buprenorphine, respectively, prior to distribution to customers. The company plans to import Poppy Straw Concentrate (9670) to bulk manufacture other controlled substances. No other activity for this drug code is authorized for this registration.

Approval of permit applications will occur only when the registrant's business activity is consistent with what is authorized under 21 U.S.C. 952(a)(2). Authorization will not extend to the import of Food and Drug Administration-approved or non-approved finished dosage forms for commercial sale.

Matthew Strait,

Deputy Assistant Administrator.

[FR Doc. 2023-01202 Filed 1-20-23; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE**Drug Enforcement Administration****[Docket No. DEA-1135]****Importer of Controlled Substances
Application: Medi-Physics Inc. dba GE
Healthcare****AGENCY:** Drug Enforcement
Administration, Justice.**ACTION:** Notice of application.

SUMMARY: Medi-Physics Inc. dba GE Healthcare has applied to be registered as an importer of basic class(es) of controlled substance(s). Refer to Supplementary Information listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants therefore, may submit electronic comments on or objections to the issuance of the proposed registration on or before February 22, 2023. Such persons may also file a written request for a hearing on the application on or before February 22, 2023.

ADDRESSES: The Drug Enforcement Administration requires that all comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to <https://www.regulations.gov> and follow the online instructions at that site for submitting comments. Upon submission of your comment, you will receive a Comment Tracking Number. Please be aware that submitted comments are not instantaneously available for public view on <https://www.regulations.gov>. If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment. All requests for a hearing must be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/OALJ, 8701 Morrisette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA **Federal Register** Representative/DPW, 8701 Morrisette Drive, Springfield, Virginia 22152. All requests for a hearing should also be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrisette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.34(a), this is notice that on December 14, 2022, Medi-Physics Inc. dba GE Healthcare, 3350 North Ridge Avenue, Arlington Heights, Illinois 60004-1412, applied to be registered as an importer of the

following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Cocaine	9041	II
Ecgonine	9180	II

The company plans to import derivatives of the listed controlled substances to be used for the manufacture of a diagnostic product and reference standards. No other activity for these drug codes is authorized for this registration.

Approval of permit applications will occur only when the registrant's business activity is consistent with what is authorized under 21 U.S.C. 952(a)(2). Authorization will not extend to the import of Food and Drug Administration-approved or non-approved finished dosage forms for commercial sale.

Matthew Strait,*Deputy Assistant Administrator.*

[FR Doc. 2023-01206 Filed 1-20-23; 8:45 am]

BILLING CODE P**DEPARTMENT OF JUSTICE****Drug Enforcement Administration****[Docket No. 1136]****Bulk Manufacturer of Controlled
Substances Application: Bulk
Manufacturer of Marihuana: Sunny
Enterprises Inc.****AGENCY:** Drug Enforcement
Administration, Justice.**ACTION:** Notice of application.

SUMMARY: The Drug Enforcement Administration (DEA) is providing notice of an application it has received from an entity applying to be registered to manufacture in bulk basic class(es) of controlled substances listed in schedule I. DEA intends to evaluate this and other pending applications according to its regulations governing the program of growing marihuana for scientific and medical research under DEA registration.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants therefore, may submit electronic comments on or objections to the issuance of the proposed registration on or before March 24, 2023.

ADDRESSES: The Drug Enforcement Administration requires that all comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type short

comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to <https://www.regulations.gov> and follow the online instructions at that site for submitting comments. Upon submission of your comment, you will receive a Comment Tracking Number. Please be aware that submitted comments are not instantaneously available for public view on <https://www.regulations.gov>. If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment."

SUPPLEMENTARY INFORMATION: The Controlled Substances Act (CSA) prohibits the cultivation and distribution of marihuana except by persons who are registered under the CSA to do so for lawful purposes. In accordance with the purposes specified in 21 CFR 1301.33(a), DEA is providing notice that the entity identified below has applied for registration as a bulk manufacturer of schedule I controlled substances. In response, registered bulk manufacturers of the affected basic class(es), and applicants therefore, may submit electronic comments on or objections of the requested registration, as provided in this notice. This notice does not constitute any evaluation or determination of the merits of the application submitted.

The applicant plans to manufacture bulk active pharmaceutical ingredients (API) for product development and distribution to DEA registered researchers. If the application for registration is granted, the registrant would not be authorized to conduct other activity under this registration aside from those coincident activities specifically authorized by DEA regulations. DEA will evaluate the application for registration as a bulk manufacturer for compliance with all applicable laws, treaties, and regulations and to ensure adequate safeguards against diversion are in place.

As this applicant has applied to become registered as a bulk manufacturer of marihuana, the application will be evaluated under the criteria of 21 U.S.C. 823(a). DEA will conduct this evaluation in the manner described in the rule published at 85 FR 82333 on December 18, 2020, and reflected in DEA regulations at 21 CFR part 1318.

In accordance with 21 CFR 1301.33(a), DEA is providing notice that on December 6, 2022, Sunny Enterprises Inc, 4562 Meridian Street, Bellingham, Washington 98226, applied to be registered as a bulk manufacturer of the

following basic class(es) of controlled substances:

Controlled substance	Drug code	Schedule
Marihuana	7360	I

Matthew Strait,

Deputy Assistant Administrator.

[FR Doc. 2023–01207 Filed 1–20–23; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–1128]

Bulk Manufacturer of Controlled Substances Application: Organic Consultants LLC DBA Cascade Chemistry

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: Organic Consultants LLC DBA Cascade Chemistry has applied to be registered as a bulk manufacturer of basic class(es) of controlled substance(s). Refer to **SUPPLEMENTARY INFORMATION** listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants therefore, may submit electronic comments on or objections to the issuance of the proposed registration on or before March 24, 2023. Such persons may also file a written request for a hearing on the application on or before March 24, 2023.

ADDRESSES: The Drug Enforcement Administration requires that all comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to <https://www.regulations.gov> and follow the online instructions at that site for submitting comments. Upon submission of your comment, you will receive a Comment Tracking Number. Please be aware that submitted comments are not instantaneously available for public view on <https://www.regulations.gov>. If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.33(a), this is notice that on November 9, 2022, Organic Consultants LLC DBA Cascade Chemistry, 90 North Polk Street, Suite

200, Eugene, Oregon 97402–4109, applied to be registered as a bulk manufacturer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Amphetamine	1100	II
Methylphenidate	1724	II
Codeine	9050	II
Oxycodone	9143	II
Hydromorphone	9150	II
Hydrocodone	9193	II
Meperidine	9230	II
Meperidine intermediate-A	9232	II
Meperidine intermediate-B	9233	II
Meperidine intermediate-C	9234	II
Methadone	9250	II
Methadone intermediate	9254	II
Morphine	9300	II
Thebaine	9333	II
Oxymorphone	9652	II
Noroxymorphone	9668	II
Fentanyl	9801	II

The company plans to bulk manufacture small quantities of the listed controlled substances for internal use or for sale as analytical reference standard materials to its customers. No other activities for these drug codes are authorized for this registration.

Matthew Strait,

Deputy Assistant Administrator.

[FR Doc. 2023–01133 Filed 1–20–23; 8:45 am]

BILLING CODE P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

[Prohibited Transaction Exemption 2023–02; Exemption Application No. D–12067]

Exemption for Certain Prohibited Transaction Restrictions Involving Citigroup, Inc. (Citigroup or the Applicant), Located in New York, New York

AGENCY: Employee Benefits Security Administration, Labor.

ACTION: Notice of exemption.

SUMMARY: This document contains a notice of an exemption issued by the Department of Labor (the Department) extending the exemptive relief provided by PTE 2017–05 for an additional four (4) years. This exemption provides that certain entities with specified relationships to Citigroup (hereinafter, the Citigroup Affiliated QPAMs and the Citigroup Related QPAMs, as defined in Sections I(b) and I(c), respectively) will not be precluded from relying on the exemptive relief provided by Prohibited Transaction Class Exemption 84–14 (PTE 84–14 or the QPAM Exemption), notwithstanding the Conviction

(defined in Section I(a)), during the Exemption Period (as defined in Section I(d)).

DATES: This exemption will be in effect from January 10, 2023, through January 9, 2027.

FOR FURTHER INFORMATION CONTACT:

Anna Mpras Vaughan of the Department at (202) 693–8565. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: The Applicant requested an individual exemption pursuant to ERISA Section 408(a) in accordance with the procedures set forth in 29 CFR part 2570, subpart B (76 FR 66637, 66644, October 27, 2011). On November 16, 2022, the Department published a notice of proposed exemption (the Proposed Exemption) in the **Federal Register** that would permit Citigroup Affiliated QPAMs and the Citigroup Related QPAMs to continue relying on the exemptive relief provided by the QPAM Exemption notwithstanding the Conviction provided certain conditions are met.¹

The Conviction: On January 10, 2017, Citicorp, a Delaware corporation that is a financial services holding company and the direct parent company of Citigroup, pled guilty to one count of an antitrust violation of the Sherman Antitrust Act (15 U.S.C. 1) arising from an investigation conducted by the U.S. Department of Justice (DOJ) of certain conduct and practices of Citigroup and other financial services firms in the foreign exchange (FX) spot market.² As set forth in the Plea Agreement, from at least December 2007 until at least January 2013, Citicorp, through one London-based Euro/U.S. dollar (EUR/USD) trader employed by Citibank and other traders at unrelated financial services firms acting as dealers in the FX spot market entered into and engaged in a conspiracy to fix, stabilize, maintain, increase or decrease the price of, and rig bids and offers for, the EUR/USD currency pair exchanged in the FX spot market by agreeing to eliminate competition in the purchase and sale of the EUR/USD currency pair in the United States and elsewhere (the Criminal Misconduct). The Criminal Misconduct included almost daily conversations, some of which were in code, in an exclusive electronic chat room used by certain EUR/USD traders, including the EUR/USD trader employed by Citibank. The Criminal

¹ 87 FR 68728, November 16, 2022.

² Citicorp's plea agreement with the DOJ (the Plea Agreement), was approved by the U.S. District Court for the District of Connecticut (the District Court) on January 10, 2017 (Case Number 3:15–cr–78–SRU).

Misconduct forms the basis for the DOJ's antitrust charge that Citicorp violated 15 U.S.C. 1.

As a result of the Conviction, the Citigroup Affiliated QPAMS and Citigroup Related QPAMS (collectively, the Citigroup QPAMS) became ineligible to rely on the relief provided in PTE 84–14 as of the January 10, 2017, sentencing date for a total of 10 years from the date of the Conviction (the Ten-Year Period), unless the Department issued an administrative individual exemption that would allow it to continue relying on such relief.

On December 22, 2016, the Department granted PTE 2016–04, an exemption allowing the Citigroup QPAMS to rely on the relief provided in PTE 84–14 for 12 months³ and on December 29, 2017, the Department granted PTE 2017–05, an exemption allowing the Citigroup QPAMS to rely on the relief provided in PTE 84–14 for an additional five years.⁴ The five-year exemption expired on January 9, 2023, leaving four (4) years remaining on the Citigroup QPAMS' Ten-Year Period during which the Citigroup QPAMS cannot rely on PTE 84–14 without an additional administrative individual exemption.

After considering the entire record developed in connection with the Applicant's exemption application, including one comment letter received in connection with the Proposed Exemption that is discussed below, the Department has determined to grant the exemption subject to the conditions and comments described below. The Department has made the requisite findings under ERISA Section 408(a) that the exemption is: (1) administratively feasible, (2) in the interest of the plan and its participants and beneficiaries, and (3) protective of the rights of the Plan's participants and beneficiaries, as long as all of the exemption conditions are met. Accordingly, affected parties should be aware that the conditions incorporated in this exemption are, individually and taken as a whole, necessary for the Department to grant the relief requested by the Applicant. Without these conditions, the Department would not have granted this exemption.

Department's Comment: This four-year exemption provides relief from certain of the restrictions set forth in ERISA Sections 406 and 407. No relief from a violation of any other law is provided by this exemption, including any criminal conviction described herein.

The Department cautions that the relief in this four-year exemption will terminate immediately if, among other things, certain entities within the Citigroup corporate structure are convicted of a crime described in Section I(g) of PTE 84–14 (other than the Conviction) during the Exemption Period of the exemption (as described in Section I(f) of this exemption, below). While such an entity could apply for a new exemption in that circumstance, the Department would not be obligated to propose such an exemption, and the facts and circumstances of any new conviction would weigh heavily on whether additional relief is provided. Finally, the terms of this four-year exemption have been designed to permit plans to terminate their relationships with the Citigroup Affiliated QPAMS in an orderly and cost-effective fashion in the event there were another conviction or a plan determines that it is otherwise prudent to terminate its relationship with them.

Written Comments Received

In the Proposed Exemption, the Department invited all interested persons to submit written comments and/or requests for a public hearing with respect to the notice of Proposed Exemption. In this regard, the Applicant was given 15 days to provide notice (Notice) to interested persons, and all comments and requests for a hearing were due on January 3, 2023. On the deadline for the Applicant to meet the Notice requirement (December 1, 2022), the Applicant notified the Department that it did not meet the proposed exemption's Notice requirement, because its notice to interested persons did not include a Federal Register copy of the Proposed Exemption. To ensure interested persons would receive full notice and have sufficient time to provide their comments to the Department, the Applicants agreed to send a second notice to interested persons (the Second Notice) to all interested persons that included a copy of Federal Register version of the Proposed Exemption and a cover letter notifying interested persons that the Department extended the comment period until January 9, 2023. The Applicant distributed the Second Notice on December 5, 2022.

The Department received 12 non-substantive phone inquiries and one comment letter from the Applicant that requested certain clarifications to the Proposed Exemption's Summary of Facts and Representations and minor changes to the Proposed Exemption's operative language and responded to the Department's request for comment on

specific issues. The Department did not receive any other comment letters or requests for a public hearing. The Applicant's comment letter, and the Department's response thereto, is discussed below.

Applicants' Requested Revisions to the Operative Language

I. Requested Revision to Section I(d). The Applicant states that the judgment described in Section I(d) of the Proposed Exemption was in fact against Citicorp, which is a specifically defined term in Section I(a). Therefore, the Applicant requested that the word "Citigroup" in Section I(d) be changed to "Citicorp."

Department's Response: The Department concurs and has revised the exemption consistent with the Applicant's request.

II. Requested Revision to Section III(j)(2). Section III(j)(2) of the Proposed Exemption requires each Citigroup Affiliated QPAM to agree and warrant to "indemnify and hold harmless the Covered Plan for any actual losses" resulting directly from certain violations and breaches by a Citigroup Affiliated QPAM. The Applicant states that as proposed, Section III(j)(2) includes a definition of "actual losses" that was not included in PTE 2017–05 and has not been defined in prior individual QPAM exemptions the Department has granted. Section III(j)(2) provides that "Actual losses include losses and related costs arising from unwinding transactions with third parties and from transitioning Plan assets to an alternative asset manager as well as costs associated with any exposure to excise taxes under Code section 4975 as a result of a QPAM's inability to rely upon the relief in the QPAM Exemption."⁵

The Applicant further states that the proposed definition is based on the language used in the pending amendment to Class PTE 84–14 that was published in the **Federal Register** on July 27, 2022, at 87 FR 45204 (the Amendment). In addition, the Applicant states that several commenters on the proposed amendment raised questions about the proposed definition of "actual losses" and requested the Department to revise or delete the definition. The Applicant states that definition may either not appear in the final Amendment or may take a different form, because the Department has not finalized the proposed amendment.

The Applicant asserts that the Department should finalize the definition of "actual losses" in PTE 84–

³ PTE 2016–14, 81 FR 94034.

⁴ PTE 2017–05, 82 FR 61864.

⁵ 87 FR 68741 (November 16, 2022).

14 rather than including it in the Proposed Exemption. The Applicant states that this would be in the interest of plans because it would facilitate consistency with reliance on the QPAM exemption generally.

Therefore, the Applicant requests the Department to delete the definition of “actual losses” from the Proposed Exemption, or in the alternative, define the phrase in the Proposed Exemption as “actual losses” as such term is defined in PTE 84–14 and if such phrase is not defined in the final amendment to PTE 84–14, the definition should not be included in the version of the Proposed Exemption that is adopted in the final grant notice.

Department’s Response: The Department declines to make the Applicant’s requested change. The new language clarifies the term “actual losses” for purposes of Section III(j)(2) of the exemption. If a Citigroup Affiliated QPAM no longer is able to rely on the QPAM Exemption, Section III(j)(2) allows the Covered Plans fiduciaries to prudently manage and make the best decisions on behalf of their plans without considering the costs caused by the QPAM’s or its affiliate’s misconduct, including costs associated with unwinding transactions and transitioning plan assets to a new asset manager, because these costs will be borne by the QPAM and not the Covered Plan. The Department notes that with respect to the notice of obligations requirement in Section III(j)(7), all Covered Plans must receive a notice that includes the clarified definition of actual losses as provided in Section III(j)(2) of this exemption. Covered Plans that previously received a notice in connection with PTE 2016–14 or PTE 2017–05 must receive a new notice if the notice they previously received did not include the definition of actual losses that is provided in this exemption.

Applicants’ Requested Revisions to the Summary of Facts and Representations

III. Information on Estimated Trading Costs for Transitioning an Investment Portfolio.

Applicant’s Request: The Applicant states that paragraph 31 on page 68737 of the Proposed Exemption included a table provided by the Applicant in its submission to the Department dated October 13, 2022, that describes the estimated trading and risk costs of transitioning an investment portfolio to a new manager. For the record, the full list of assumed Commission Rates is as follows:

Commission Rates	
US Equities	0.5 cents per share.
DM Equities	3 basis points.
EM Equities	8 basis points.
FX	2 basis points.
US Treasuries	2 basis points.
Corporates	6 basis points.
Mortgages	6 basis points.
Municipals	6 basis points.

The Department’s Response: The Department notes the revision to the table in paragraph 31 on page 68737 of the Proposed Exemption.

IV. Description of Citigroup Advisory Business.

Applicant’s Request: The Applicant states that, as a result of recent internal Citigroup organizational changes and other considerations, the registered investment adviser business of Citi Private Advisory, LLC (CPA) was moved in its entirety into a newly formed entity, Citi Global Alternatives, LLC, which commenced operations in September 2022.

The Department’s Response: The Department notes this change in structure.

The Department’s Requests for Comments on Specific Issues

V. The Department asked the Applicant whether the Applicant should be required to provide information regarding adverse regulatory actions (e.g., fines, censures, penalties, civil lawsuits, settlements of civil or criminal lawsuits), that are taken by other regulators against Citigroup and its affiliates. Further, the Department asked the Applicant whether the Applicant should be required to provide information regarding actions taken by certain regulators (e.g., IRS, SEC, OCC, UK FCA), and whether there is an appropriate type of information or class of regulatory actions that are relevant to the Department’s determination whether the Citigroup QPAMS should be permitted to continue to rely on PTE 84–14 notwithstanding the Conviction.

Applicant’s response: The Applicant does not believe it should be required to provide information regarding adverse regulatory actions beyond what is currently required by applicable law. The Applicant explained that Citigroup does business in more than 160 countries and jurisdictions across the globe, with extensive oversight by regulatory authorities (frequently more than one in each jurisdiction) under multiple regulatory regimes. The Applicant stated that given the wide variety of regulatory regimes and broad range of possible actions that regulators could take, Citigroup does not believe it

would be feasible to undertake such reporting generally or to define a particular type of information or class of regulatory actions that would be relevant to the QPAM relief. The Applicant stated that attempting to do so would lead to uncertainty for plans and plan fiduciaries, to the detriment of plans.⁶

Furthermore, the Applicant states that Citigroup’s subsidiary Citibank, N.A., is a national bank subject to the restrictions in the National Bank Act on making records available to persons other than the Office of the Comptroller of the Currency (the OCC). The Applicant states that the OCC Reports of Examination and other formal written communications are subject to confidentiality requirements under federal banking law, specifically under 12 CFR part 4. Other U.S. banking regulators operate under similar restrictions, as described in a 2005 joint release by the OCC and other federal banking agencies entitled “Interagency Advisory on the Confidentiality of the Supervisory Rating and Other Nonpublic Supervisory Information,” and non-U.S. regulators may impose similar limitations. The Applicant states that as a result, a requirement to make records available to the Department would be administratively burdensome for the Department, because of the need to distinguish between information that may or may not be legally disclosed, and the information made available to the Department or to plans would be necessarily incomplete.

The Department’s Response: The Department notes the Applicant’s response and agrees that currently, additional information regarding U.S. and non-U.S. regulators’ actions beyond that already required under the terms of this exemption, should not be required as an additional condition for relief. However, the Department notes that if it becomes aware of any other regulatory actions that it considers relevant to a determination whether continued relief under this exemption is appropriate, then the Department may request detailed information from the Applicant.

VI. The Department’s Request for Comment Regarding Training: The Department views the Training

⁶ The Applicant notes that, although it is not practical to estimate the number of regulatory authorities and regimes to which Citi is subject worldwide, it is easy to imagine the aggregate number that specifically focus on the regulation of financial services being in the many hundreds, and those whose regulatory focus is not specifically on financial services business but whose regulations impact financial services, such as the tax and employment law authorities, in the many thousands.

obligation under this exemption as a key protection of Covered Plans and expects that Citigroup Affiliated QPAMs and their personnel will complete their obligations in good faith. The Department requests comments regarding whether the Citigroup Affiliated QPAMs should be required to validate the efficacy of Training that is provided electronically, through methods such as in-training knowledge checks, “graduation” tests, and other technological tools designed to confirm that personnel fully and in good faith participate in the Training.

Applicant’s Response: The Applicant agrees that it is important to verify training that has been provided electronically. It has a system in place for this purpose, called the Citi Learning Management System (LMS), an automated system that launches, monitors completion, and maintains a permanent record of all employee web-based training. Among other things, the LMS system:

- emails the employee periodic reminders to complete the training before the due date;
- notifies the employee’s manager if training is overdue; and
- maintains a Reports Dashboard that allows a manager or Independent Compliance Risk Management (ICRM) to check completion rates.

ICRM may periodically run its own reports and communicate overdue results to business management. In addition, the training modules include “knowledge checks,” in the form of questions positioned at different points in the program, relating to key aspects of the training.

The Applicant stated that it does not believe any additional conditions are required in the exemption to impose any such requirements, because it already has a system in place.

The Department’s Response: Given the importance of the Training requirement to this exemption, the Department does not agree with the Applicant that additional conditions to validate the efficacy of the Training should not be required, as such additional conditions would be protective of participants and beneficiaries of Covered Plans. To the extent the Applicant has existing procedures that already address these concerns, it should not be difficult for Citigroup to comply with additional requirements to confirm that personnel fully and in good faith participate in the Training. As such, the Department has added new Section III(h)(2)(iv) to require that the Training “[b]e verified, through in-training knowledge checks,

“graduation” tests, and/or other technological tools designed to confirm that personnel fully and in good faith participate in the Training.”

Furthermore, the Department expects the independent auditor described in Section III(i)(1) of the exemption to address through its review and testing, the concerns raised in the Department’s Request for Comment validating the efficacy of the Training, and, if necessary, to suggest additional enhancements to the Applicant’s Training program.

Additional Clarifications

In the Notice of Proposed Exemption, the Department commented that, “[t]he Department intends for the “Best Knowledge” standard described in the exemption to require the certifying senior executive to perform its due diligence required under the exemption to determine whether the information such executive is certifying is complete and accurate in all respects.”⁷ The Department clarifies that, this interpretation applies whenever the “Best Knowledge” standard is used in the exemption. Furthermore, with respect to an entity other than a natural person, the term “Best Knowledge” includes matters that are known to the directors and officers of the entity or should be known to such individuals upon the exercise of such individuals’ due diligence required under the circumstances.

Conclusions

Accordingly, after considering the entire record developed in connection with the Applicant’s exemption request, subject to the comments and information described above, and in consideration of the exemption’s protective conditions, the Department has determined to grant this exemption consistent with the requirements of ERISA Section 408(a).

The complete application file (D–12067) for this exemption is available for public inspection in the Public Disclosure Room of the Employee Benefits Security Administration, Room N–1515, U.S. Department of Labor, 200 Constitution Avenue NW, Washington, DC 20210. For a more complete statement of the facts and representations supporting the Department’s decision to grant this exemption, please refer to the Proposed Exemption published on November 16, 2022, at 87 FR 68278.

⁷ 87 FR 68736.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under ERISA Section 408(a) does not relieve a fiduciary or other party in interest from certain requirements of other ERISA provisions, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of ERISA Section 404, which, among other things, require a fiduciary to discharge their duties respecting the plan prudently and solely in the interest of the plan’s participants and beneficiaries.

(2) As required by ERISA Section 408(a), the Department hereby finds that the exemption is: (a) administratively feasible; (b) in the interests of the affected plan and its participants and beneficiaries; and (c) protective of the rights of the plan’s participants and beneficiaries.

(3) This exemption is supplemental to, and not in derogation of, any other ERISA provisions, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of determining whether the transaction is in fact a prohibited transaction.

(4) The availability of this exemption is subject to the express condition that the material facts and representations contained in the application accurately describe all material terms of the transactions that are the subject of the exemption.

Accordingly, the Department grants the following exemption under the authority of ERISA Section 408(a) and in accordance with the procedures set forth in 29 CFR part 2570, subpart B (76 FR 66637, 66644, October 27, 2011):

Exemption

Section I: Definitions

(a) The term “Citicorp” means Citicorp, a financial services holding company subsidiary of Citigroup Inc. that is organized and existing under the laws of Delaware and does not include any subsidiaries or other affiliates.

(b) The term “Citigroup Affiliated QPAM” means a “qualified professional asset manager” (as defined in section VI(a)⁸ of PTE 84–14) that relies on the

⁸ In general terms, a QPAM is an independent fiduciary that is a bank, savings and loan association, insurance company, or investment adviser that meets certain equity or net worth requirements and other licensure requirements and has acknowledged in a written management

relief provided by PTE 84–14 and with respect to which Citigroup is a current or future “affiliate” (as defined in section VI(d)(1) of PTE 84–14). The term “Citigroup Affiliated QPAM” excludes Citicorp, the entity implicated in the criminal conduct that is the subject of the Conviction.

(c) The term “Citigroup Related QPAM” means any current or future “qualified professional asset manager” (as defined in section VI(a) of PTE 84–14) that relies on the relief provided by PTE 84–14, and with respect to which Citigroup owns a direct or indirect five percent or more interest, but with respect to which Citigroup is not an “affiliate” (as defined in Section VI(d)(1) of PTE 84–14).

(d) The term “Conviction” means the judgment of conviction against Citicorp for violation of the Sherman Antitrust Act (15 U.S.C. 1), entered in the District Court for the District of Connecticut (the District Court) (Case Number 3:15–cr–78–SRU). For all purposes under this exemption, “conduct” of any person or entity that is the “subject of [a] Conviction” encompasses the conduct described in Paragraph 4(g)–(i) of the Plea Agreement filed in the District Court in Case Number 3:15–cr–78–SRU.

(e) The term “Covered Plan” means a plan subject to Part 4 of Title I of ERISA (ERISA-covered plan) or a plan subject to Section 4975 of the Code (IRA) with respect to which a Citigroup Affiliated QPAM relies on PTE 84–14, or with respect to which a Citigroup Affiliated QPAM (or any Citigroup affiliate) has expressly represented that the manager qualifies as a QPAM or relies on the QPAM class exemption (PTE 84–14). A Covered Plan does not include an ERISA-covered Plan or IRA to the extent the Citigroup affiliated QPAM has expressly disclaimed reliance on QPAM status or PTE 84–14 in entering into its contract, arrangement, or agreement with the ERISA-covered plan or IRA.

(f) The term “Exemption Period” means January 10, 2023, through January 9, 2027.

Section II: Covered Transactions

The Citigroup Affiliated QPAMs and the Citigroup Related QPAMs (as defined in Sections I(b) and I(c), respectively) will not be precluded from relying on the exemptive relief provided by Prohibited Transaction Class Exemption 84–14 (PTE 84–14 or the QPAM Exemption),⁹ notwithstanding

the Conviction, as defined in Section I(d)), during the Exemption Period, provided that the conditions in Section III below are satisfied.

Section III: Conditions

(a) Other than a single individual who worked for a non-fiduciary business within Citigroup’s Markets and Securities Services business, and who had no responsibility for and exercised no authority in connection with the management of plan assets, the Citigroup Affiliated QPAMs and the Citigroup Related QPAMs (including their officers, directors, agents other than Citicorp, and employees of such QPAMs who had responsibility for, or exercised authority in connection with the management of plan assets) did not know of, did not have reason to know of, or participate in the criminal conduct that is the subject of the Conviction. For purposes of this paragraph (a), “participate in” means the knowing approval of the misconduct underlying the Conviction;

(b) Other than a single individual who worked for a non-fiduciary business within Citigroup’s Markets and Securities Services business and who had no responsibility for and exercised no authority in connection with the management of plan assets, the Citigroup Affiliated QPAMs and the Citigroup Related QPAMs (including their officers, directors, and agents other than Citicorp, and employees of such Citigroup QPAMs) did not receive direct compensation or knowingly receive indirect compensation in connection with the criminal conduct that is the subject of the Conviction;

(c) The Citigroup Affiliated QPAMs will not employ or knowingly engage any of the individuals that participated in the criminal conduct that is the subject of the Conviction. For the purposes of this paragraph (c), “participated in” includes the knowing approval of the misconduct underlying the Conviction;

(d) At all times during the Exemption Period, no Citigroup Affiliated QPAM will use its authority or influence to direct an “investment fund” (as defined in Section VI(b) of PTE 84–14), that is subject to ERISA or the Code and managed by such Citigroup Affiliated QPAM in reliance on PTE 84–14, or with respect to which a Citigroup Affiliated QPAM has expressly represented to an ERISA-covered plan or IRA with assets invested in such “investment fund” that it qualifies as a QPAM or relies on PTE 84–14, to enter into any transaction with Citicorp, or to engage Citicorp to provide any service to such investment fund, for a direct or

indirect fee borne by such investment fund, regardless of whether such transaction or service may otherwise be within the scope of relief provided by an administrative or statutory exemption;

(e) Any failure of a Citigroup Affiliated QPAM or a Citigroup Related QPAM to satisfy Section I(g) of PTE 84–14 arose solely from the Conviction;

(f) A Citigroup Affiliated QPAM or a Citigroup Related QPAM did not exercise authority over the assets of any plan subject to Part 4 of Title I of ERISA (an ERISA-covered plan) or section 4975 of the Code (an IRA) in a manner that it knew or should have known would: Further the criminal conduct that is the subject of the Conviction; or cause the Citigroup Affiliated QPAM, the Citigroup Related QPAM or their affiliates to directly or indirectly profit from the criminal conduct that is the subject of the Conviction;

(g) Other than with respect to employee benefit plans maintained or sponsored for its own employees or the employees of an affiliate, Citicorp will not act as a fiduciary within the meaning of section 3(21)(A)(i) or (iii) of ERISA, or section 4975(e)(3)(A) and (C) of the Code, with respect to ERISA-covered plan and IRA assets; provided, however, that Citicorp will not be treated as violating the conditions of this exemption solely because it acted as an investment advice fiduciary within the meaning of section 3(21)(A)(ii) or section 4975(e)(3)(B) of the Code;

(h)(1) Each Citigroup Affiliated QPAM must continue to maintain, adjust (to the extent necessary), implement and follow written policies and procedures (the Policies). The Policies must require and be reasonably designed to ensure that:

(i) The asset management decisions of the Citigroup Affiliated QPAM are conducted independently of the corporate management and business activities of Citigroup;

(ii) The Citigroup Affiliated QPAM fully complies with ERISA’s fiduciary duties and with ERISA and the Code’s prohibited transaction provisions, as applicable with respect to each Covered Plan, and does not knowingly participate in any violation of these duties and provisions with respect to Covered Plans;

(iii) The Citigroup Affiliated QPAM does not knowingly participate in any other person’s violation of ERISA or the Code with respect to Covered Plans;

(iv) Any filings or statements made by the Citigroup Affiliated QPAM to regulators, including, but not limited to, the Department, the Department of the Treasury, the Department of Justice, and

agreement that it is a fiduciary with respect to each plan that has retained the QPAM.

⁹ 49 FR 9494 (March 13, 1984), as corrected at 50 FR 41430 (October 10, 1985), as amended at 70 FR 49305 (August 23, 2005), and as amended at 75 FR 38837 (July 6, 2010).

the Pension Benefit Guaranty Corporation, on behalf of or in relation to Covered Plans, are materially accurate and complete to the best of such QPAM's knowledge at the time;

(v) To the best of the Citigroup Affiliated QPAM's knowledge at the time, the Citigroup Affiliated QPAM does not make material misrepresentations or omit material information in its communications with such regulators with respect to Covered Plans, or make material misrepresentations or omit material information in its communications with Covered Plans;

(vi) The Citigroup Affiliated QPAM complies with the terms of this exemption; and

(vii) Any violation of, or failure to comply with an item in subparagraphs (ii) through (vi), is corrected as soon as reasonably possible upon discovery, or as soon after the QPAM reasonably should have known of the noncompliance (whichever is earlier), and any such violation or compliance failure not so corrected is reported, upon the discovery of such failure to so correct, in writing, to the head of compliance, and the General Counsel (or their functional equivalent) of the relevant line of business that engaged in the violation or failure, and the independent auditor responsible for reviewing compliance with the Policies. A Citigroup Affiliated QPAM will not be treated as having failed to develop, implement, maintain, or follow the Policies, provided that it corrects any instance of noncompliance as soon as reasonably possible upon discovery, or as soon as reasonably possible after the QPAM reasonably should have known of the noncompliance (whichever is earlier), and provided that it adheres to the reporting requirements set forth in this subparagraph (vii);

(2) Each Citigroup Affiliated QPAM must maintain, adjust (to the extent necessary), and implement a program of training (the Training) to be conducted at least annually for all relevant Citigroup Affiliated QPAM asset/portfolio management, trading, legal, compliance, and internal audit personnel. The Training must:

(i) At a minimum, cover the Policies, ERISA and Code compliance (including applicable fiduciary duties and the prohibited transaction provisions), ethical conduct, the consequences for not complying with the conditions of this four-year exemption (including any loss of exemptive relief provided herein), and prompt reporting of wrongdoing;

(ii) Be conducted by a professional who has been prudently selected and

who has appropriate technical training and proficiency with ERISA and the Code;

(iii) Be conducted in-person,

electronically or via a website; and
(iv) Be verified, through in-training knowledge checks, "graduation" tests, and/or other technological tools designed to confirm that personnel fully and in good faith participate in the Training;

(i)(1) Each Citigroup Affiliated QPAM, which Citigroup identifies in a certificate signed by the officer who will review and certify the Audit Report (as defined in Section III(i)(5)) pursuant to Section III(i)(8), submits to an audit conducted every two years by an independent auditor, who has been prudently selected and who has appropriate technical training and proficiency with ERISA and the Code, to evaluate the adequacy of, each Citigroup Affiliated QPAM's compliance with the Policies and Training conditions described herein. The audit requirement must be incorporated in the Policies. The last audit period under PTE 2017–05 will extend into the Exemption Period under this exemption; therefore, the audit periods under PTE 2017–05 and this exemption are as follows:

(i) Under PTE 2017–05, the first audit covers the period from July 10, 2018 through July 9, 2019 (and must be completed by January 9, 2020); the second audit covers the period from July 10, 2020 through July 9, 2021 (and must be completed by January 9, 2022); and the third audit covers the period from July 10, 2022 through July 9, 2023 (and must be completed by January 9, 2024).

(ii) The first audit under this four-year exemption (the fourth audit under the totality of exemptive relief) covers the period from July 10, 2024 through July 9, 2025 (and must be completed by January 9, 2026); and the second audit (the fifth audit under the totality of exemptive relief) covers the period from July 10, 2026 through January 9, 2027 (must be completed by July 9, 2027). As described above, the fifth audit period is truncated, so that it expires concurrently with the expiration of the Exemption Period. However, the Audit Report (defined below) for the fifth audit period must be completed and delivered timely and despite such report being due to the Department after the expiration of the Exemption Period, the failure to receive such report could impact negatively on Citigroup's ability to claim relief under this exemption during the Exemption Period, if granted.

(2) Within the scope of the audit and to the extent necessary for the auditor, in its sole opinion, to complete its audit and comply with the conditions for

relief described herein, and only to the extent such disclosure is not prevented by state or federal statute, or involves communications subject to attorney client privilege, each Citigroup Affiliated QPAM and, if applicable, Citigroup, will grant the auditor unconditional access to its business, including, but not limited to: Its computer systems; business records; transactional data; workplace locations; training materials; and personnel. Such access is limited to information relevant to the auditor's objectives as specified by the terms of this exemption;

(3) The auditor's engagement must specifically require the auditor to determine whether each Citigroup Affiliated QPAM has developed, implemented, maintained, and followed the Policies in accordance with the conditions of this exemption, and has developed and implemented the Training, as required herein;

(4) The auditor's engagement must specifically require the auditor to test each Citigroup Affiliated QPAM's operational compliance with the Policies and Training. In this regard, the auditor must test, for each QPAM, a sample of such QPAM's transactions involving Covered Plans, sufficient in size and nature to afford the auditor a reasonable basis to determine such QPAM's operational compliance with the Policies and Training;

(5) For each audit, on or before the end of the relevant period described in Section III(i)(1) for completing the audit, the auditor must issue a written report (the Audit Report) to Citigroup and the Citigroup Affiliated QPAM to which the audit applies that describes the procedures performed by the auditor during the course of its examination. The auditor, at its discretion, may issue a single consolidated Audit Report that covers all the Citigroup Affiliated QPAMs. The Audit Report must include the auditor's specific determinations regarding:

(i) The adequacy of each Citigroup Affiliated QPAM's Policies and Training; each Citigroup Affiliated QPAM's compliance with the Policies and Training; the need, if any, to strengthen such Policies and Training; and any instance of the respective Citigroup Affiliated QPAM's noncompliance with the written Policies and Training described in Section III(h) above.

The Citigroup Affiliated QPAM must promptly address any noncompliance and promptly address or prepare a written plan of action to address any determination by the auditor regarding the adequacy of the Policies and Training and the auditor's

recommendations (if any) with respect to strengthening the Policies and Training of the respective Citigroup Affiliated QPAM. Any action taken, or the plan of action to be taken, by the respective Citigroup Affiliated QPAM must be included in an addendum to the Audit Report (and such addendum must be completed before the certification described in Section III(i)(7) below). In the event such a plan of action to address the auditor's recommendation regarding the adequacy of the Policies and Training is not completed by the time the Audit Report is submitted, the following period's Audit Report must state whether the plan was satisfactorily completed. Any determination by the auditor that the respective Citigroup Affiliated QPAM has implemented, maintained, and followed sufficient Policies and Training must not be based solely or in substantial part on an absence of evidence indicating noncompliance. In this last regard, any finding that a Citigroup Affiliated QPAM has complied with the requirements under this subparagraph must be based on evidence that the particular Citigroup Affiliated QPAM has actually implemented, maintained, and followed the Policies and Training required by this exemption. Furthermore, the auditor must not rely solely on the Annual Report created by the compliance officer (the Compliance Officer) as described in Section III(m) below, as the basis for the auditor's conclusions in lieu of independent determinations and testing performed by the auditor as required by Section III(i)(3) and (4) above; and

(ii) The adequacy of the most recent Annual Review described in Section III(m);

(6) The auditor must notify the respective Citigroup Affiliated QPAM of any instance of noncompliance identified by the auditor within five (5) business days after such noncompliance is identified by the auditor, regardless of whether the audit has been completed as of that date;

(7) With respect to each Audit Report, the General Counsel, or one of the three most senior executive officers, of the line of business engaged in discretionary asset management services through the Citigroup Affiliated QPAM with respect to which the Audit Report applies, must certify in writing, under penalty of perjury, that such signatory has reviewed the Audit Report and this exemption; and that, to the best of such signatory's knowledge at the time, such Citigroup Affiliated QPAM has addressed, corrected, or remedied any noncompliance and inadequacy or has

an appropriate written plan to address any inadequacy regarding the Policies and Training identified in the Audit Report. Such certification must also include the signatory's determination that, to the best of such signatory's knowledge at the time, the Policies and Training in effect at the time of signing are adequate to ensure compliance with the conditions of this exemption, and with the applicable provisions of ERISA and the Code;

(8) The Risk Management Committee of Citigroup's Board of Directors is provided a copy of each Audit Report; and a senior executive officer of Citigroup or one of its affiliates who reports directly to, or reports to another executive who reports directly to, the highest-ranking compliance officer of Citigroup must review the Audit Report for each Citigroup Affiliated QPAM and must certify in writing, under penalty of perjury, that such officer has reviewed each Audit Report;

(9) Each Citigroup Affiliated QPAM provides its certified Audit Report by electronic mail to: *e-oed@dol.gov*; or by regular mail to: Office of Exemption Determinations (OED), 200 Constitution Avenue NW, Suite 400, Washington DC 20210; or by private carrier to: 122 C Street NW, Suite 400, Washington, DC 20001–2109. This delivery must take place no later than forty-five (45) days following completion of the Audit Report. The Audit Report will be made part of the public record regarding this exemption. Furthermore, each Citigroup Affiliated QPAM must make its Audit Report unconditionally available, electronically or otherwise, for examination upon request by any duly authorized employee or representative of the Department, other relevant regulators, and any fiduciary of a Covered Plan;

(10) Each Citigroup Affiliated QPAM and the auditor must submit to OED by electronic mail to: *e-oed@dol.gov*. Any engagement agreement(s) entered into pursuant to the engagement of the auditor under this exemption, no later than two (2) months after the execution of any such engagement agreement;

(11) The auditor must provide the Department, upon request, for inspection and review, access to all the workpapers created and utilized in the course of the audit, provided such access and inspection is otherwise permitted by law; and

(12) Citigroup must notify the Department of a change in the independent auditor no later than two (2) months after the engagement of a substitute or subsequent auditor and must provide an explanation for the substitution or change including a

description of any material disputes between the terminated auditor, and Citigroup;

(j) Throughout the Exemption Period, with respect to any arrangement, agreement, or contract between a Citigroup Affiliated QPAM and a Covered Plan, the Citigroup Affiliated QPAM agrees and warrants:

(1) To comply with ERISA and the Code, as applicable with respect to such Covered Plan; to refrain from engaging in prohibited transactions that are not otherwise exempt (and to promptly correct any non-exempt prohibited transactions in accordance with applicable rules under ERISA and the Code); and to comply with the standards of prudence and loyalty set forth in section 404 of ERISA with respect to each such Covered Plan to the extent that section is applicable;

(2) To indemnify and hold harmless the Covered Plan for any actual losses resulting directly from a Citigroup Affiliated QPAM's violation of ERISA's fiduciary duties, as applicable, and of the prohibited transaction provisions of ERISA and the Code, as applicable; a breach of contract by the QPAM; or any claim arising out of the failure of such Citigroup Affiliated QPAM to qualify for the exemptive relief provided by PTE 84–14 as a result of a violation of Section I(g) of PTE 84–14 other than the Conviction. This condition applies only to actual losses caused by the Citigroup Affiliated QPAM's violations. The term Actual losses includes, but is not limited to, losses and related costs arising from unwinding transactions with third parties and from transitioning Plan assets to an alternative asset manager as well as costs associated with any exposure to excise taxes under Code section 4975 as a result of a QPAM's inability to rely upon the relief in the QPAM Exemption.

(3) Not to require (or otherwise cause) the Covered Plan to waive, limit, or qualify the liability of the Citigroup Affiliated QPAM for violating ERISA or the Code or engaging in non-exempt prohibited transactions;

(4) Not to restrict the ability of such Covered Plan to terminate or withdraw from its arrangement with the Citigroup Affiliated QPAM with respect to any investment in a separately managed account or pooled fund subject to ERISA and managed by such QPAM, with the exception of reasonable restrictions, appropriately disclosed in advance, that are specifically designed to ensure equitable treatment of all investors in a pooled fund in the event such withdrawal or termination may have adverse consequences for all other investors. In connection with any of

these arrangements involving investments in pooled funds subject to ERISA entered into after the effective date of this exemption, the adverse consequences must relate to a lack of liquidity of the underlying assets, valuation issues, or regulatory reasons that prevent the fund from promptly redeeming a Covered Plan's investment, and such restrictions must be applicable to all investors in the pooled fund on equal terms and effective no longer than reasonably necessary to avoid the adverse consequences;

(5) Not to impose any fees, penalties, or charges for such termination or withdrawal with the exception of reasonable fees, appropriately disclosed in advance, that are specifically designed to prevent generally recognized abusive investment practices or specifically designed to ensure equitable treatment of all investors in a pooled fund in the event such withdrawal or termination may have adverse consequences for all other investors, provided that such fees are applied consistently and in like manner to all such investors;

(6) Not to include exculpatory provisions disclaiming or otherwise limiting liability of the Citigroup Affiliated QPAM for a violation of such agreement's terms. To the extent consistent with ERISA Section 410, however, this provision does not prohibit disclaimers for liability caused by an error, misrepresentation, or misconduct of a plan fiduciary or other party hired by the plan fiduciary who is independent of Citigroup, and its affiliates, or damages arising from acts outside the control of the Citigroup Affiliated QPAM; and

(7) Each Citigroup Affiliated QPAM must provide a notice of its obligations under this Section III(j) to each Covered Plan. For all other prospective Covered Plans, the Citigroup Affiliated QPAM will agree to its obligations under this Section III(j) in an updated investment management agreement between the Citigroup Affiliated QPAM and such clients or other written contractual agreement. This condition will be deemed met for each Covered Plan that received a notice pursuant to PTE 2016–14 or PTE 2017–05 that meets the terms of this condition. This condition will also be met where the Citigroup Affiliated QPAM has already agreed to the same obligations required by this Section III(j) in an updated investment management agreement between the Citigroup Affiliated QPAM and a Covered Plan. Notwithstanding the above, a Citigroup Affiliated QPAM will not violate the condition solely because a Covered Plan client refuses to sign an

updated investment management agreement;

(k) *Notice to ERISA-covered plans and IRA clients.* Within ninety (90) days after the effective date of this exemption, each Citigroup Affiliated QPAM provides notice of the exemption as published in the **Federal Register**, along with a separate summary describing the facts that led to the Conviction (the Summary), which has been submitted to the Department, and a prominently displayed statement (the Statement) that the Conviction results in a failure to meet a condition in PTE 84–14, to each sponsor and beneficial owner of a Covered Plan, or the sponsor of an investment fund in any case where a Citigroup Affiliated QPAM acts only as a sub-advisor to the investment fund in which such ERISA-covered plan and IRA invests.

All prospective Covered Plan clients that enter into a written asset or investment management agreement with a Citigroup Affiliated QPAM (including a participation or subscription agreement in a pooled fund managed by a Citigroup Affiliated QPAM) after the date that is ninety (90) days after the effective date of this exemption must receive the proposed and final exemptions with the Summary and the Statement prior to, or contemporaneously with, the client's receipt of a written asset management agreement from the Citigroup Affiliated QPAM (for avoidance of doubt, all Covered Plan clients of a Citigroup Affiliated QPAM during the Exemption Period must receive the disclosures described in this Section by the later of (i) 90 days after the effective date of the exemption or (ii) the date that a Covered Plan client enters into a written asset or investment management agreement with a Citigroup Affiliated QPAM). Disclosures required under this paragraph (k) may be delivered electronically (including by an email that has a link to this exemption);

(l) The Citigroup Affiliated QPAMs must comply with each condition of PTE 84–14, as amended, with the sole exception of the violation of Section I(g) of PTE 84–14 that is attributable to the Conviction;

(m)(1) Citigroup designates a senior compliance officer (the Compliance Officer) who will be responsible for compliance with the Policies and Training requirements described herein. The Compliance Officer must conduct an annual review for each annual period beginning on January 10, 2023 (the Annual Review), to determine the adequacy and effectiveness of the implementation of the Policies and Training. With respect to the

Compliance Officer, the following conditions must be met:

(i) The Compliance Officer must be a professional who has extensive experience with, and knowledge of, the regulation of financial services and products, including under ERISA and the Code; and

(ii) The Compliance Officer must be a senior compliance officer of Citigroup Inc. or one of its affiliates who reports directly to (or reports to another compliance officer who reports directly to) Citigroup Inc.'s highest ranking compliance officer (whose title is currently Global Chief Compliance Officer of Citigroup Inc.);

(2) With respect to each Annual Review, the following conditions must be met:

(i) The Annual Review includes a review of the Citigroup Affiliated QPAM's compliance with and effectiveness of the Policies and Training and of the following: Any compliance matter related to the Policies or Training that was identified by, or reported to, the Compliance Officer or others within the compliance and risk control function (or its equivalent) during the previous year; the most recent Audit Report issued pursuant to this exemption (or pursuant to PTE 2017–05 if no audit report has been issued under this exemption); any material change in the relevant business activities of the Citigroup Affiliated QPAMs; and any change to ERISA, the Code, or regulations related to fiduciary duties and the prohibited transaction provisions that may be applicable to the activities of the Citigroup Affiliated QPAMs;

(ii) The Compliance Officer prepares a written report for each Annual Review (each, an Annual Report) that: (A) summarizes their material activities during the preceding year; (B) sets forth any instance of noncompliance discovered during the preceding year, and any related corrective action; (C) details any change to the Policies or Training to guard against any similar instance of noncompliance occurring again; and (D) makes recommendations, as necessary, for additional training, procedures, monitoring, or additional and/or changed processes or systems, and management's actions on such recommendations;

(iii) In each Annual Report, the Compliance Officer must certify in writing that to the best of their knowledge at the time: (A) The report is accurate; (B) the Policies and Training are working in a manner which is reasonably designed to ensure that the Policies and Training requirements described herein are met; (C) any known

instance of noncompliance during the preceding year and any related correction taken to date have been identified in the Annual Report; and (D) the Citigroup Affiliated QPAMs have complied with the Policies and Training and/or corrected (or is correcting) any known instances of noncompliance in accordance with Section III(h) above;

(iv) Each Annual Report must be provided to: (A) the person or persons who certify as to the current or most recent preceding Audit Report provided pursuant to Section III(i)(7) above, and (B) the head of compliance and the General Counsel (or their functional equivalent) of the relevant Citigroup Affiliated QPAM; and must be made unconditionally available to the independent auditor described in Section III(i) above;

(v) Each Annual Review, including the Compliance Officer's written Annual Report, must be completed within three (3) months following the end of the period to which it relates;

(n) Citigroup imposes its internal procedures, controls, and protocols to reduce the likelihood of any recurrence of conduct that is the subject of the Conviction;

(o) Citigroup complies in all material respects with the requirements imposed by a U.S. regulatory authority in connection with the Conviction;

(p) Each Citigroup Affiliated QPAM will maintain records necessary to demonstrate that the conditions of this exemption have been met, for six (6) years following the date of any transaction for which such Citigroup Affiliated QPAM relies upon the relief in the exemption;

(q) During the Exemption Period, Citigroup:

(1) Immediately discloses to the Department any Deferred Prosecution Agreement (a DPA) or a Non-Prosecution Agreement (an NPA) with the U.S. Department of Justice, entered into by Citigroup or any of its affiliates in connection with conduct described in Section I(g) of PTE 84-14 or section 411 of ERISA; and

(2) immediately provides the Department any information requested by the Department, as permitted by law, regarding the agreement and/or conduct and allegations that led to the agreement;

(r) Each Citigroup Affiliated QPAM, in its agreements with, or in other written disclosures provided to Covered Plans, clearly and prominently informs Covered Plan clients of the Covered Plan's right to obtain a copy of the Policies or a description (Summary Policies), which accurately summarizes key components of the QPAM's written

Policies developed in connection with this exemption. If the Policies are thereafter changed, each Covered Plan client must receive a new disclosure within six (6) months following the end of the calendar year during which the Policies were changed. If the Applicant meets this disclosure requirement through Summary Policies, changes to the Policies shall not result in the requirement for a new disclosure unless, as a result of changes to the Policies, the Summary Policies are no longer accurate. With respect to this requirement, the description may be continuously maintained on a website, provided that such website link to the Policies or the Summary Policies is clearly and prominently disclosed to each Covered Plan;

(s) A Citigroup Affiliated QPAM or a Citigroup Related QPAM will not fail to meet the terms of this exemption, solely because a different Citigroup Affiliated QPAM or Citigroup Related QPAM fails to satisfy a condition for relief described in Sections III(c), (d), (h), (i), (j), (k), (l), (p) and (r); or if the independent auditor described in Section III(i) fails to comply with a provision of the exemption, other than the requirement described in Section III(i)(11), provided that such failure did not result from any actions or inactions of Citigroup or its affiliates; and

(t) All the material facts and representations set forth in the Summary of Facts and Representations are true and accurate.

Effective Date: This four-year exemption, will be effective from January 10, 2023, through January 9, 2027.

Signed at Washington, DC.

George Christopher Cosby,

*Director, Office of Exemption Determinations,
Employee Benefits Security Administration,
U.S. Department of Labor.*

[FR Doc. 2023-01332 Filed 1-20-23; 8:45 am]

BILLING CODE 4510-29-P

DEPARTMENT OF LABOR

Employment and Training Administration

Agency Information Collection Activities; Comment Request

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: The Department of Labor's (DOL's), Employment and Training Administration (ETA) is soliciting comments concerning a proposed extension for the authority to conduct

the information collection request (ICR) titled, "Petition for Classifying Labor Surplus Areas." 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).

DATES: Consideration will be given to all written comments received by March 24, 2023.

ADDRESSES: A copy of this ICR with applicable supporting documentation, including a description of the likely respondents, proposed frequency of response, and estimated total burden, may be obtained free by contacting Donald Haughton by telephone at 202-693-2784, TTY 1-877-889-5627, (this is not a toll-free number) or by email at Haughton.Donald.W@dol.gov.

Submit written comments about, or requests for a copy of, this ICR by mail or courier to the U.S. Department of Labor, Employment and Training Administration, Office of Workforce Investment, 200 Constitution Avenue NW, Room C-4510, Washington DC, 20210; by email: Haughton.Donald.W@dol.gov; or by Fax 202-693-3015.

FOR FURTHER INFORMATION CONTACT: Donald Haughton by telephone at 202-693-2784 (this is not a toll-free number) or by email at Haughton.Donald.W@dol.gov.

SUPPLEMENTARY INFORMATION: DOL, as part of continuing efforts to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies an opportunity to comment on proposed and/or continuing collections of information before submitting them to the Office of Management and Budget (OMB) for final approval. This program helps to ensure 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 can be properly assessed.

Under Executive Orders 12073 and 10582, and 20 CFR parts 651 and 654, the Secretary of Labor is required to classify Labor Surplus Areas (LSA) and disseminate this information for the use of all Federal agencies. This information is used by Federal agencies for various purposes including procurement decisions, waiver decisions for the Supplemental Nutritional Assistance Program, certain small business loan decisions, as well as other purposes determined by the agencies. The LSA list is issued annually, effective October 1 of each year, utilizing data from the

Bureau of Labor Statistics. Areas meeting the criteria are classified as LSAs.

Department regulations specify that the Department can add other areas to the annual LSA listing under the exceptional circumstance criteria. Such additions are based on information contained in petitions submitted by the state workforce agencies (SWAs) to ETA. These petitions contain specific economic information about an area to provide ample justification for adding the area to the LSA listing under the exceptional circumstances criteria. The petitions submitted by the SWAs concern various aspects of unemployment and the economic condition for a specific area in order to provide justification for adding the area to the LSA list under the exceptional circumstances criteria. Under these criteria, an area may be determined eligible for classification as a LSA if it is experiencing a high rate of unemployment which is not temporary or seasonal and which was not adequately reflected in the unemployment data for the two-year reference period. Instructions designed to assist SWAs in the preparation of such petitions are currently contained on the ETA website: <https://www.dol.gov/agencies/eta/lsa>.

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 it is approved by OMB under the PRA 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 Control Number. See 5 CFR 1320.5(a) and 1320.6.

Interested parties are encouraged to provide comments to the contact shown in the **ADDRESSES** section. Comments must be written to receive consideration, and they will be summarized and included in the request for OMB approval of the final ICR. In order to help ensure appropriate consideration, comments should mention Classifying Labor Surplus Areas (LSA), OMB control number 1205-0207.

Submitted comments will also be a matter of public record for this ICR and posted on the internet, without redaction. The DOL encourages commenters not to include personally identifiable information, confidential business data, or other sensitive

statements/information in any comments.

The DOL 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 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).

Agency: DOL-ETA.

Type of Review: Extension without changes.

Title of Collection: Petition for Classifying Labor Surplus Areas.

Form: N/A.

OMB Control Number: 1205-0207.

Affected Public: State Workforce Agencies.

Estimated Number of Respondents: 3.

Frequency: Annually.

Total Estimated Annual Responses: 3.

Estimated Average Time per

Response: 3 hours.

Estimated Total Annual Burden

Hours: 9 hours.

Total Estimated Annual Other Cost Burden: \$0.

Authority: 44 U.S.C. 3506(c)(2)(A).

Brent Parton,

Acting Assistant Secretary for Employment and Training, Labor.

[FR Doc. 2023-01141 Filed 1-20-23; 8:45 am]

BILLING CODE 4510-FN-P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Request for Information (RFI) on Sector Strategies To Meet Critical Workforce Needs Across Industries

AGENCY: Employment and Training Administration (ETA); Department of Labor.

ACTION: Request for information.

SUMMARY: The U.S. Department of Labor's (DOL's) Employment and

Training Administration (ETA) requests information on current and planned local and regional sector strategies and partnership models. This request for information (RFI) seeks input from all stakeholders involved directly and indirectly in economic and workforce development, particularly as it relates to the development of sector strategy models that address the workforce needs of specific industry sectors within a local or regional labor market through a strategic sector partnership. This stakeholder input will inform the Department's efforts in developing sustainable and scalable sector strategies through economic development and workforce collaboration to meet local and regional sector needs for skilled workers in quality jobs while meeting broader Administration objectives, such as equity and the inclusion of historically marginalized populations within those sectors, and responsiveness to the needs of businesses and the economy in critical industries during and beyond the pandemic.

DATES: Responses may be submitted on a rolling basis but are due no later than 5 p.m. (ET) on March 24, 2023.

ADDRESSES: Submit all responses to this RFI by email to Hannah Jenuwine at jenuwine.hannah.r@dol.gov. Responses must be received by 5:00 p.m. (E.T.) on March 24, 2023, for consideration. Only electronic responses will be accepted.

Please identify your answers by responding to a specific question or topic, if applicable. Please clearly state the specific question to which you are responding. All assumptions, including any assumed government support, shall be clearly identified. All proprietary and restricted information shall be clearly marked. Respondents may answer as many or as few questions as they wish. DOL will not respond to individual submissions. A response to this RFI will not be viewed as a binding commitment to develop or pursue the project or ideas discussed.

Submitting comments via email. Please include in the subject line "RFI: Sector Strategies to Meet Critical Workforce Needs Across Industries." Responses must be provided as attachments to an email. It is recommended that attachments with file sizes exceeding 25MB be compressed (i.e., zipped) to ensure message delivery; however, no email shall exceed a total of 45MB, including all attachments. Responses must be provided as a Microsoft Word (.docx) or Portable Document Format (.pdf) attachment to the email and may be no more than 25 pages in length, in 12-point font, with

1-inch margins. Please provide the following information in a cover letter:

- Community, organization, or company (if applicable);
- Contact name; and
- Contact's address, phone number, and email address.

FOR FURTHER INFORMATION CONTACT: Jenn Smith, Division Chief, Division of Strategic Investments, by telephone at 202-693-3597 (this is not a toll-free number) or by email at smith.jenn@dol.gov.

SUPPLEMENTARY INFORMATION: The Workforce Innovation and Opportunity Act of 2014 (WIOA) emphasizes the important role of sector strategies in a dynamic regional workforce development plan. Within WIOA, regional coordination and planning requirements include the necessity of a regional plan that supports the “development and implementation of sector initiatives for in-demand industry sectors or occupations in the regions.” Sector strategies are useful models of local and regional workforce development that are well-positioned to align the collective needs of employers in an in-demand industry with the skilled workforce needed, while ensuring a successful career pathway from training to employment and career progression. There is evidence of the effectiveness of a sector approach but the transition from paper to practice can be challenging. Real-world collaboration can be hard to sustain without dedicated support and focused commitment. Scaling of effective strategies can also be challenging as the context, partnerships, and workforce challenges within specific sectors may involve factors and considerations that vary from those in a local or regional economic development area.

ETA developed a sector strategy framework in 2016, which has been used to inform many of our more recent investments. This framework defines a sector strategy as a partnership of multiple employers within a critical industry that brings together education, economic development, workforce systems, and community organizations to identify and collaboratively meet the workforce needs of that industry within a regional labor market. Sector strategies are a key element of a Career Pathways System, which develops education and training in collaboration with employers to ensure the end product supports the skills and competencies needed by industry. As a systems change approach, there are recognized components of an effective sector strategy. ETA's Sector

Strategy Implementation Framework,¹ drawing from emerging research and practices, advanced “five key capabilities” of successful sector-focused organizations that state and regional workforce partnerships should master in implementing a sector approach. They include:

- **Data-Informed Decision Making**—the organization/partnership uses rigorous data to make decisions about target industries and education and training investments.
- **Industry Engagement**—there is meaningful and continuous involvement of targeted industry sector employers in designing and delivering programs and services.
- **Sector-Based Service Delivery**—all partners are effectively facilitating the delivery of workforce solutions to be responsive to the needs of workers and the targeted industry sector(s).
- **Sustainability and Continuous Improvement**—the organization/partnership is able to measure sector strategy outcomes and has an effective and realistic plan to financially sustain sector work over time.
- **Organizational Capacity and Alignment**—the organization/partnership has the personnel, policies, vision, and resources in place to continually support sector strategy outcomes.

The Department has funded several recent sector strategy initiatives through H-1B-funded grant programs, and evaluations from these projects will support key learnings to support future investments, such as the SECTOR initiative proposed in WIOA reauthorization and the FY 23 President's Budget. The SECTOR proposal encompasses the key capabilities of sector strategies described above but also targets equity by centering services on the most underserved populations and communities while focusing on high-skill, high-wage, and/or in-demand industry sectors or occupations that lead to an economy of good jobs. Additionally, this RFI will provide crucial information on how local and regional areas are considering sector strategies as a response to key workforce needs, particularly in the most critical industries of priority and opportunity—such as those being built out through recent federal investments, including the Bipartisan Infrastructure Law (BIL), Inflation Reduction Act (IRA), and the CHIPS and Science Act of 2022 (CHIPS).

¹ See <https://businessengagement.workforcecps.org/resources/2016/04/12/13/53/Sector-Strategies-Implementation-Framework>.

This RFI seeks to grow ETA and partner agencies' understanding of effective sector strategies through the experiences of key stakeholders in local and regional economies to further inform policymakers and workforce practitioners at the federal, state, and local levels. Such information will refine policy responses, technical assistance for adoption and scaling of sector strategies as a response to economic and workforce development needs, and inform the design of future grants. Specifically, understanding what the challenges are to implementing sector strategies, what has resulted in successful sector approaches, who the key partners need to be and what their roles should be, the current level of regional coordination and planning that has been undertaken to support sector partnerships, how the partnerships are funded, and how the success of such partnerships can be measured will benefit the federal government's efforts to effectively engage with local and regional workforce areas to create an impactful response to the current and future training needs in critical industries, such as advanced manufacturing (including semiconductor manufacturing), information technology and cybersecurity, transportation infrastructure modernization, healthcare, and clean energy and energy resilience.

Further, in alignment with the Administration's priority on supporting increased job quality, including through the active inclusion of worker voice, this RFI seeks also to learn about sector strategies that specifically focus on and incorporate equity and worker voice into the training design, supportive service delivery, workforce decision making processes, and ongoing professional development and career growth opportunities. One equity and worker-centered sector strategy example showing promise is the “High Road Training Partnership” (H RTP) sector strategy model from California. Such models align with the Biden-Harris Administration priority on good quality jobs, which can be considered those that provide livable wages of at least \$15 an hour, employment benefits, work environments free of discrimination, and opportunities for advancement, as well as supporting worker voice and engagement. For example, the worker-centered sector strategies of H RTP do this by being equity-centered, worker-focused and industry-led, allowing for innovative workforce solutions that create and support job quality using four essential elements: (1) industry-led

problem solving; (2) partnership as a priority; (3) worker voice; and (4) strategic training solutions.² Other impactful sector strategy models developed by and with industry and workforce development intermediaries that also focus on job quality through family-sustaining wages and equitable inclusion of a diverse workforce include San Antonio's Project QUEST,³ and the Wisconsin Regional Training Partnership's Building Industry Group Skilled Trades Employment Program (BIG STEP).⁴ An additional example of industry-supported and validated sector-based training that is a key component of a sector strategy is the Per Scholas model for IT training.⁵ However, these are just a few of the promising models and training strategies developed and implemented across the nation.

ETA is interested in learning more about equity and worker-centered sector strategies such as HRTP, and additional models, to gather feedback on questions such as: Does this approach work across all industry sectors? What workforce strategies have emerged from these efforts—career pathway development, apprenticeships—that have been supported by employer partners? How are these strategies funded and sustained? Do the strategies impact different groups of workers differently? Are any strategies particularly suited to developing the skills and opportunities for historically marginalized communities?

Who Should Respond

ETA invites workforce and economic development practitioners, education and training institutions, state and local policy makers, industry and professional associations, labor organizations, and funders and researchers to provide information, including:

- *Employers/Businesses and/or Associations of Employers:* including, but not limited to, local and regional employers and businesses; trade/industry associations; and others.
- *Education:* including, but not limited to, K–12 systems; institutions of higher education; tribal colleges; and others.
- *Workforce Development:* including, but not limited to, state, regional, tribal

and local workforce agencies; state and local workforce development boards; training providers; community and faith-based organizations; workforce intermediaries; sector-based training partnerships; American Job Centers; Registered Apprenticeship Programs; and others.

- *Economic Development:* including, but not limited to, state and local agencies; regional skills partnerships; planning and development organizations; area development districts; councils of government; economic development associations; and economic development corporations.

- *Worker/Employee Representation:* Unions, labor-management partnerships, worker centers, and organizations that represent or serve workers, including workers from communities that have historically been marginalized or underserved, such as Black, Latino, and Indigenous and Native American persons; Asian Americans and Pacific Islanders and other persons of color; members of religious minorities; lesbian, gay, bisexual, transgender, and queer (LGBTQ+) persons; persons with disabilities; persons who live in rural areas; opportunity youth; individuals previously incarcerated; immigrant workers; women; farmworkers; and veterans.

- *Other:* including, but not limited to, philanthropic funders, advocacy organizations, think tanks, professional/industry associations, and others.

These organizations may submit individual responses or may choose to convene their active sector partnership for a coordinated response. Additionally, DOL has identified next to each Topic Area which responders may be most interested in that Topic Area, but these are suggestions and are not meant to limit any interested party from responding.

Questions for Input

This RFI is an initial step in improving DOL's understanding of goals, interests, concerns, challenges, best practices and promising practices, and policy, program, and resource needs of local and regional economic development areas, with respect to sector strategies. This RFI is a general solicitation for public input, which sets forth topics for discussion and comment. Specific questions to which responses are requested for each topic area are listed below. Respondents may provide input regarding any one, several, or all of the topic areas and may address any one several, or all of the questions. These questions may also be

considered prompts for additional input and DOL welcomes any additional relevant information that respondents wish to share, even if not the specific topic of a question.

Topic Area 1: Definitions (Many Stakeholders May Be Interested in Responding)

- 1a. How do you define a sector?
- 1b. How do you define a sector strategy?
- 1c. Would sector partnerships benefit from the development of a consensus for other common definitions or key program components? What other consensus-driven common definitions have been developed by sector partnerships?

Topic Area 2: Partnership Roles and Requirements (Employers, Education, Workforce Development, Worker/Employee Representation, and Economic Development Stakeholders May Be Interested in Responding)

- 2a. Who are the local and regional partners necessary to support an effective regional sector partnership?
- 2b. Which entities are best positioned to lead the sector partnership? Does this vary by geographic or industry scope of the partnership? If so, why?
- 2c. What degree of industry representation is needed to ensure that the sector partnership is developing a strategy that is broadly responsive to industry need within a given region or locality?
- 2d. What degree of worker/employee representation is needed to ensure that the sector partnership is developing a strategy that centers and advances equity and worker voice?
- 2e. What strategies have you employed to recruit key partners to be part of sector partnerships?
- 2f. What key ingredients must be present for a sector partnership to successfully launch?
- 2g. What key ingredients must be present for a sector partnership to be effectively sustained?
- 2h. Are there strategies or incentives that are most beneficial in ensuring partners are effectively engaged at various stages of the partnership?
- 2i. What does a fully engaged partner look like?
- 2j. To what extent do successful sector strategies align their efforts with partners who have broader reach and purview (e.g., State-level entities, national employers, etc.)? If so, how do sector partnerships cultivate such relationships?
- 2k. What specific role should the public workforce system play in developing, expanding, and sustaining sector partnerships?

² See https://cwdb.ca.gov/wp-content/uploads/sites/43/2020/01/HRTP-Essential-Elements_ACCESSIBLE.pdf.

³ See <https://questsa.org/wp-content/uploads/2021/08/QUEST25YearEconomicImpactStudy.pdf>.

⁴ See <https://wrtp.org/wp-content/uploads/2022/05/WRTP-Impact-Report-2021.pdf>.

⁵ See <https://perscholas.org/wp-content/uploads/2021/11/Annual-Update-2021-Final.pdf>.

Topic Area 3: Promising Practices for Employer Engagement and Workforce Development (Employers, Workforce Development, Worker/Employee Representation, and Other Stakeholders May Be Interested in Responding)

3a. Are there factors that contribute to sector-based strategies being more effective in some specific sectors than others?

3b. How are sector strategies targeting industries/occupations? What resources/tools are sector partnerships using to target specific occupations?

3c. How are sector partnerships implementing evidence-based models for training, such as Registered Apprenticeship Programs (RAPs)? Are partnerships leveraging existing RAPs and/or developing new RAP pathways?

3d. Are there promising sector strategy models that promote job quality and/or demonstrate improvement in the quality of jobs within an industry or sector (e.g., flexible hours, family-sustaining wages, good benefits, active inclusion of worker voice)?

3e. How are sector strategies recruiting workers for training opportunities developed through sector partnerships? Are there examples of effective recruitment of workers who are under-represented in the industry or occupation, including workers from communities that have been historically marginalized or underserved?

3f. How have sector strategies built in pathways for new entrants to the workforce, particularly youth? Are specific career and technical education strategies being used to support the transition from secondary to post-secondary education and training models? If so, are there specific challenges to this approach? Are there unique partners that must be included?

3g. How have sector strategies supported employee retention and career advancement? Are there particular approaches that have demonstrated improvement in these areas?

3h. What other kinds of non-training services are sector strategies delivering? How do those services support the overarching goals of the sector strategy? Have sector strategies improved supportive service delivery to workers?

3i. How have your sector strategy efforts been informed by the evidence base on sector strategies?

3j. What evidence or research do you have that these sector strategies lead to employment in high-quality jobs (i.e., those with career progression and family-sustaining wages, worker representation and voice, a safe work environment, and benefits)?

3k. What evidence, research, or models have shown that sector strategies result in higher wages and/or wage growth for low-wage occupations within their respective industry?

3l. Are there additional questions that you think need to be addressed by future research on sector strategies?

3m. What promising approaches are sector strategies using to prepare workers for employment in the targeted sector or occupation? Might these approaches differ based on the industry? Are there specific success factors that are most important?

3n. Are there working definitions and specific promising practices that differentiate between types of sector strategies?

3o. How have sector partnerships affected the ways in which employer partners manage their recruitment and hiring practices, such as through the assessments they use or approaches to skill-based hiring?

Topic Area 4: Promising Practices for Worker-Centered Sector Strategies (Employers, Education, Workforce Development, Economic Development, and Worker/Employee Representation Stakeholders May Be Interested in Responding)

4a. What sector strategies are effective in promoting worker voice and worker-centered workforce development (e.g., training design, supportive service delivery, workforce decision making processes, and ongoing professional development and career growth opportunities)?

4b. Are there specific practices or requirements for worker-centered sector strategies to be effective, e.g., High Road Training Partnerships' use of employer standards?

4c. What are the biggest challenges to engaging workers to support workforce development through a worker-centered model? What are effective ways of addressing these challenges?

4d. Are there key strategies to use when developing a worker-centered sector strategy in the absence of a worker or labor-management organization partner in the geographic region or industry focus?

4e. Are there specific industries or sectors where a worker-centered sector strategy has been more effective? If so, why?

Topic Area 5: Resources (Employers, Education, Workforce Development, Economic Development, and Other Stakeholders May Be Interested in Responding)

5a. What financial resources are already broadly available within the

targeted region to support the sector strategy—e.g., Pell grants for education/training, WIOA state or local funds or other WIOA resources, Registered Apprenticeship Program funding/incentives, state-appropriated funding, or others?

5b. With the available financial resources, are there limitations or challenges in terms of uses of such funds?

5c. Are there key areas of work where funding support is most beneficial? Are these areas currently supported by existing funding streams?

5d. What non-financial resources are necessary for an effective sector strategy and are they available in your region?

5e. Do sector strategies require different levels of funding at different points in the process? For example, during the initial phase of start-up, is less funding necessary than at later points, or not necessarily? What costs are most significant at various stages of maturity? Is there a consistent level of administrative funding necessary to support the sustained sector strategy model?

Topic Area 6: Federal Support for Sector Strategies

6a. Which “critical” industry sectors demonstrate the greatest need for skilled workers in the next decade and could benefit from additional Federal resources, and why?

6b. What types of funding and other supports—such as data or technical assistance—would be helpful and in what form? Specifically, are there roles the Department of Labor and other federal agencies could play in supporting local or regional sector activity beyond direct investment, including:

- Bringing national industry and labor partners together to engage in key sectors?
- Leveraging federal data insights to assess targeted sector needs?
- Providing technical assistance and capacity building to the field, including learning and exchange across sector-based efforts?
- Specific flexibilities or resources to support regional sector-based efforts at various stages?

6c. Have there been efforts already to align with, or leverage, the recent Federal investments mentioned previously (e.g., BIL, IRA, CHIPS)?

Topic Area 7: Advancing Equity (Many Stakeholders May Be Interested in Responding)

7a. What are the most promising approaches to engage employers to increase hiring and retention and

improve employment outcomes for historically marginalized and underrepresented populations, such as women, people of color, individuals with disabilities, and other historically underrepresented populations?

7b. What are effective sector-based strategies in addressing issues of equity, including increasing representation of historically marginalized populations within the identified sector(s) through improved hiring, retention, and advancement in high-quality jobs?

7c. Should the targeted industry sector affect the strategies used to increase equity?

7d. What are challenges to consider in addressing equity through a sector strategy partnership?

7e. How have the inputs from historically marginalized and underrepresented populations been taken into consideration when designing a program to serve them? What are effective approaches for soliciting input from marginalized and underrepresented populations?

Topic Area 8: Measuring Success (Employers, Education, Workforce Development, Economic Development, and Other Stakeholders May Be Interested in Responding)

8a. How would you define success within a sector strategy model?

8b. Are there specific measurements or milestones that would work best to measure effective partnership development and maturity (*i.e.*, systems change or capacity-building measures/ milestones)? Are there quantitative measures as well as qualitative ones?

8c. Would sector strategies benefit from the development of consensus for outcomes to measure impact and effectiveness of sector strategies or do unique sector strategy models and partnerships require unique performance measures and milestones?

8d. Are there specific performance measures that would work best to meaningfully assess the impact of a sector strategy on the participants served by it? Are there qualitative measures as well as quantitative ones?

8e. How long does it take to start achieving measurable outcomes? Are there near-term (within 12 months) and long-term (beyond 12 months) outputs and outcomes that can be identified to demonstrate change effectively?

8f. Are you involved in any new program evaluations of a potentially promising sector strategy model? Where can we learn more about this new evidence being produced?

Topic Area 9: Local Needs Assessments and Capacity (Education, Workforce Development, Economic Development, and Worker/Employee Representation Stakeholders May Be Interested in Responding)

9a. If your regional area has not yet engaged in a sector strategy, why not? Is there a regional plan for workforce development?

9b. Has your regional economic area undertaken a local needs assessment to determine gaps between the supply of skilled workers and hiring practices within identified in-demand industry sectors or occupations? If so, what has this assessment revealed?

Topic Area 10: Evidence Use (Education, Workforce Development, Economic Development, Worker/Employee Representation, and Other Stakeholders May Be Interested in Responding)

10a. What evidence have you used to inform your thinking when designing a new sector strategy partnership or program, or improving your existing program?

10b. Where do you find your evidence?

10c. What is the hardest thing about using evidence in decision-making about your program(s)?

Topic Area 11: Sustainability and Scalability (Many Stakeholders May Be Interested in Responding)

11a. What are the biggest challenges to developing and sustaining effective sector strategies? What are key factors influencing the sustainability of a sector strategy and its partnerships (*e.g.*, funding, partner engagement, changing labor market demands)? If ongoing funding is needed to sustain a sector strategy, for which specific activities is it needed?

11b. What are key factors for successfully scaling sector strategy models at the local, regional, and national levels? For instance, does it matter more what the sectors are, who the employers are, the geographic and cultural context, or some combination of these?

11c. What are the key obstacles to successfully scaling sector strategy models at the local, regional, and national levels? As with the previous question, does it matter more what the sectors are, who the employers are, the geographic and cultural context, or some combination?

Topic Area 12: Necessary and Beneficial Technical Assistance Support (Many Stakeholders May Be Interested in Responding)

12a. What targeted technical assistance would be of most benefit in supporting a sector strategy? What targeted technical assistance would be of most benefit in supporting sector partnerships? What organization(s) or type of organization(s) is best positioned to provide this technical assistance?

12b. What DOL guidance could be helpful and what type of webinar topics or virtual/in-person training would be beneficial for DOL to provide?

Disclaimer and Important Note

This RFI is not a Funding Opportunity Announcement (FOA), prize, or any other type of solicitation; therefore, DOL is not accepting applications at this time. DOL may issue a FOA or other solicitation in the future based on or related to the content and responses to this RFI; however, DOL may also elect not to issue a FOA or solicitation. There is no guarantee that a FOA or solicitation will be issued as a result of this RFI. Responding to this RFI does not provide any advantage or disadvantage to potential applicants if DOL chooses to issue a FOA regarding the subject matter. This RFI does not constitute a formal solicitation for proposals or abstracts. Your response to this notice will be treated as information only. DOL will review and consider all responses in its formulation of program strategies for the identified materials of interest that are the subject of this request. DOL will not provide reimbursement for costs incurred in responding to this RFI.

Respondents are advised that DOL is under no obligation to acknowledge receipt of the information received or provide feedback to respondents with respect to any information submitted under this RFI. Responses to this RFI do not bind DOL to any further actions related to this topic.

Confidential Business Information: Pursuant to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email two well-marked copies: One copy of the document marked "confidential" including all the information believed to be confidential, and one copy of the document marked "non-confidential" with the information believed to be confidential deleted. Submit these documents via email. DOL will make its own determination about the confidential status of the information and treat it according to its

determination. It is DOL's policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

Brent Parton,

Acting Assistant Secretary for Employment and Training, Labor.

[FR Doc. 2023-01142 Filed 1-20-23; 8:45 am]

BILLING CODE 4510-FN-P

DEPARTMENT OF LABOR

Employment and Training Administration

Agency Information Collection Activities; Comment Request

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: The Department of Labor (DOL), Employment and Training Administration (ETA) is soliciting comments concerning a proposed revision for the authority to conduct the information collection request (ICR) titled, "Workforce Information Grants to States (WIGS)." 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).

DATES: Consideration will be given to all written comments received by March 24, 2023.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free by contacting Donald Houghton by telephone at 202-693-2784, TTY 877-889-5627, (these are not toll-free numbers) or by email at Haughton.Donald.W@dol.gov.

Submit written comments about, or requests for a copy of, this ICR by mail or courier to the U.S. Department of Labor, Employment and Training Administration, Office of Workforce Investment, 200 Constitution Avenue NW, Room C-4510, Washington DC, 20210; or by email:

Haughton.Donald.W@dol.gov.

FOR FURTHER INFORMATION CONTACT: Donald Houghton by telephone at 202-693-2784 (this is not a toll-free number) or by email at Haughton.Donald.W@dol.gov.

SUPPLEMENTARY INFORMATION: The DOL, as part of continuing efforts to reduce

paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies an opportunity to comment on proposed and/or continuing collections of information before submitting them to the OMB for final approval. This program helps to ensure 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 can be properly assessed.

This collection of information is necessary to comply with the reporting requirements of the Workforce Innovation and Opportunity Act (WIOA) section 308 (29 U.S.C. 491-2), and 20 Code of Federal Regulations (CFR) parts 651 and 652.

WIOA section 308 requires the Secretary of Labor to oversee the development, maintenance, and continuous improvement of a nationwide Workforce and Labor Market Information System (workforce information) system; and to evaluate the performance of the system and recommend needed improvements, taking into consideration customer consultation results, with particular attention given to improvements needed at the state, regional and local levels. The WIGS information collection ensures the Secretary of Labor meets WIOA requirements, and the states complete grant deliverables such as state economic analyses or special workforce information/economic studies, and the annual performance report.

The ETA makes use of the information collected from WIGS grantees primarily to serve four customer groups: (1) the public (including job seekers and employers); (2) labor market intermediaries who help individuals find a job or make career decisions (such as employment and school counselors, case managers at American Job Centers, and community-based organizations); (3) policymakers and employment and economic program planners and operators; and (4) miscellaneous other customers, including researchers, commercial data providers, and the news media.

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 it is approved by the OMB under the PRA 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 Control Number. See 5 CFR 1320.5(a) and 1320.6.

Interested parties are encouraged to provide comments to the contact shown in the **ADDRESSES** section. Comments must be written to receive consideration, and they will be summarized and included in the request for OMB approval of the final ICR. In order to help ensure appropriate consideration, comments should mention Workforce Information Grants to States (WIGS), OMB control number 1205-0417.

Submitted comments will also be a matter of public record for this ICR and posted on the internet, without redaction. The DOL encourages commenters not to include personally identifiable information, confidential business data, or other sensitive statements/information in any comments.

The DOL 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 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.

Agency: DOL-ETA.

Type of Review: Revision.

Title of Collection: Workforce Information Grants to States (WIGS).

Form: N/A

OMB Control Number: 1205-0417.

Affected Public: State Workforce Agencies.

Estimated Number of Respondents: 54.

Frequency: Once.

Total Estimated Annual Responses: 162

Estimated Average Time per Response: 578 hours.

Estimated Total Annual Burden Hours: 31,228 hours.

Total Estimated Annual Other Cost Burden: \$1,219,453.

Authority: 44 U.S.C. 3506(c)(2)(A).

Brent Parton,

Acting Assistant Secretary for Employment and Training, Labor.

[FR Doc. 2023–01140 Filed 1–20–23; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Peace Corps Volunteer Authorization for Examination and/or Treatment

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Office of Workers' Compensation Programs (OWCP)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that the agency receives on or before February 22, 2023.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function.

Comments are invited on: (1) whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: Nicole Bouchet by telephone at 202–693–0213, or by email at DOL_PRA_PUBLIC@dol.gov.

SUPPLEMENTARY INFORMATION: OWCP administers the Federal Employees' Compensation Act (FECA). A Peace Corps Volunteer who sustains an injury or contracts an illness overseas while in Peace Corps service may be entitled to

benefits under the FECA. DOL authorizes the Peace Corps to furnish medical benefits to a volunteer, who is injured during the volunteer's period of service, for a period of 120 days following termination if the service volunteer's injury meets requirements. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on November 4, 2022 (87 FR 66750).

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–OWCP.

Title of Collection: Peace Corps Volunteer Authorization for Examination and/or Treatment.

OMB Control Number: 1240–0059.

Affected Public: Private Sector—Individuals or Households.

Total Estimated Number of Respondents: 252.

Total Estimated Number of Responses: 252.

Total Estimated Annual Time Burden: 63 hours.

Total Estimated Annual Other Costs Burden: \$159.00.

(Authority: 44 U.S.C. 3507(a)(1)(D))

Nicole Bouchet,

Senior PRA Analyst.

[FR Doc. 2023–01138 Filed 1–20–23; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2007–0042]

TUV Rheinland of North America, Inc.: Grant of Expansion of Recognition

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: In this notice, OSHA announces the final decision to expand the scope of recognition for TUV Rheinland of North America, Inc. as a Nationally Recognized Testing Laboratory (NRTL).

DATES: The expansion of the scope of recognition becomes effective on January 23, 2023.

FOR FURTHER INFORMATION CONTACT:

Information regarding this notice is available from the following sources:

Press inquiries: Contact Mr. Frank Meilinger, Director, OSHA Office of Communications, U.S. Department of Labor, telephone: (202) 693–1999; email: meilinger.francis2@dol.gov.

General and technical information: Contact Mr. Kevin Robinson, Director, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, phone: (202) 693–2110 or email: robinson.kevin@dol.gov.

SUPPLEMENTARY INFORMATION:

I. Notice of Final Decision

OSHA hereby gives notice of the expansion of the scope of recognition of TUV Rheinland of North America, Inc. (TUVRNA), as a NRTL. TUVRNA's expansion covers the addition of two recognized testing and certification sites to the NRTL scope of recognition.

OSHA recognition of a NRTL signifies that the organization meets the requirements specified in 29 CFR 1910.7. Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within the scope of recognition and is not a delegation or grant of government authority. As a result of recognition, employers may use products approved by the NRTL to meet OSHA standards that require product testing and certification.

The agency processes applications by a NRTL for initial recognition, or for expansion or renewal of this recognition, following requirements in Appendix A to 29 CFR 1910.7. This appendix requires that the agency publish two notices in the **Federal Register** in processing an application. In the first notice, OSHA announces the application and provides the preliminary finding. In the second notice, the agency provides the final decision on the application. These notices set forth the NRTL's scope of recognition or modifications of that scope. OSHA maintains an informational web page for each NRTL, including TUVRNA, which details that

NRTL's scope of recognition. These pages are available from the OSHA website at <http://www.osha.gov/dts/otpcanrtl/index.html>.

TUVRNA submitted an application, dated February 8, 2018 (OSHA–2007–0042–0061), to expand recognition as a NRTL to include two additional test sites located at: 295 Foster Street, Suite 100, Littleton, Massachusetts 01460 (TUVRNA Littleton) and 710 Resende Road, Bldg. 199, Webster, New York 14580 (TUVRNA Webster). OSHA staff performed an on-site review of TUVRNA's testing facilities at TUVRNA Littleton on July 12, 2022, and at TUVRNA Webster on July 14, 2022, in which assessors found some nonconformities with the requirements of 29 CFR 1910.7. TUVRNA addressed these issues sufficiently, and OSHA staff preliminarily determined that OSHA should grant the application.

OSHA published the preliminary notice announcing TUVRNA's expansion application in the **Federal Register** on December 9, 2022 (87 FR 75667). The agency requested comments by December 27, 2022, but it received no comments in response to this notice. OSHA now is proceeding with this notice to grant expansion of TUVRNA's scope of recognition.

To obtain or review copies of all public documents pertaining to the TUVAM expansion application, go to www.regulations.gov or contact the Docket Office at (202) 693–2350 (TTY (877) 889–5627). Docket No. OSHA–2007–0042 contains all materials in the record concerning TUVRNA's recognition.

II. Final Decision and Order

OSHA staff examined TUVRNA's expansion application, conducted a detailed on-site assessment, and examined other pertinent information. Based on review of this evidence, OSHA finds that TUVRNA meets the requirements of 29 CFR 1910.7 for expansion of recognition, subject to the specified limited and conditions. OSHA, therefore, is proceeding with this final notice to grant TUVRNA's scope of recognition. OSHA limits the expansion of TUVRNA's recognition to include the sites at Littleton, Massachusetts and Webster, New York as listed above. OSHA's recognition of these two sites limits TUVRNA to performing product testing and certifications only to the test standards for which the site has the proper capability and programs, and for test standards in TUVRNA's scope of recognition. This limitation is consistent with the recognition that OSHA grants

to other NRTLs that operate multiple sites.

A. Conditions

In addition to those conditions already required by 29 CFR 1910.7, TUVRNA also must abide by the following conditions of the recognition:

1. TUVRNA must inform OSHA as soon as possible, in writing, of any change of ownership, facilities, or key personnel, and of any major change in its operations as a NRTL, and provide details of the change(s);
2. TUVRNA must meet all the terms of its recognition and comply with all OSHA policies pertaining to this recognition; and
3. TUVRNA must continue to meet the requirements for recognition, including all previously published conditions on TUVRNA's scope of recognition, in all areas for which it has recognition.

III. Authority and Signature

James S. Frederick, Deputy Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue NW, Washington, DC 20210, authorized the preparation of this notice. Accordingly, the agency is issuing this notice pursuant to 29 U.S.C. 657(g)(2), Secretary of Labor's Order No. 8–2020 (85 FR 58393; Sept. 18, 2020), and 29 CFR 1910.7.

Signed at Washington, DC, on January 17, 2023.

James S. Frederick,

Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2023–01143 Filed 1–20–23; 8:45 am]

BILLING CODE 4510–26–P

NUCLEAR REGULATORY COMMISSION

[NRC–2023–0001]

Sunshine Act Meetings

TIME AND DATE: Weeks of January 23, 30, February 6, 13, 20, 27, 2023. 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 and closed.

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 Wendy.Moore@nrc.gov or Tyesha.Bush@nrc.gov.

MATTERS TO BE CONSIDERED:

Week of January 23, 2023

Tuesday, January 24, 2023

9:00 a.m. Overview of Accident Tolerant Fuel Activities (Public Meeting). (Contact: Samantha Lav: 301–415–3487)

Additional Information: The meeting will be held in the Commissioners' Conference 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/>.

Thursday, January 26, 2023

9:00 a.m. Strategic Programmatic Overview of the Decommissioning and Low-Level Waste and Nuclear Materials Users Business Lines (Public Meeting) (Contacts: Annie Ramirez: 301–415–6780; Candace Spore: 301–415–8537)

Additional Information: The meeting will be held in the Commissioners' Conference 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 January 30, 2023—Tentative

There are no meetings scheduled for the week of January 30, 2023.

Week of February 6, 2023—Tentative

Tuesday, February 7, 2023

10:00 a.m. Briefing on Security Issues (Closed Ex. 1)

Thursday, February 9, 2023

9:00 a.m. Advanced Reactor Licensing Under 10 CFR parts 50 and 52 (Public Meeting). (Contact: Omid Tabatabai: 301–415–6616)

Additional Information: The meeting will be held in the Commissioners' Conference 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 February 13, 2023—Tentative

There are no meetings scheduled for the week of February 13, 2023.

Week of February 20, 2023—Tentative

There are no meetings scheduled for the week of February 20, 2023.

Week of February 27, 2023—Tentative

There are no meetings scheduled for the week of February 27, 2023.

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: January 19, 2023.

For the Nuclear Regulatory Commission.

Wesley W. Held,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2023-01304 Filed 1-19-23; 4:15 pm]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[Docket No. 40-8907; NRC-2019-0026]

United Nuclear Corporation; Church Rock Uranium Mill Site; Correction

AGENCY: Nuclear Regulatory Commission.

ACTION: Environmental impact statement and programmatic agreement; issuance; correction.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is correcting a notice that was published in the **Federal Register** on January 13, 2023, regarding a final Environmental Impact Statement for United Nuclear Corporation's (UNC) request for a license amendment, as well as the issuance of a final Programmatic Agreement that provides requirements for the NRC, U.S. Environmental Protection Agency, and UNC to follow to ensure that cultural resources are protected during project activities. This action is necessary to correct the signature date of the notice.

DATES: January 23, 2023.

ADDRESSES: Please refer to Docket ID NRC-2019-0026 when contacting the NRC about the availability of information regarding this document.

You may obtain publicly available information related to this document using any of the following methods:

- **Federal Rulemaking Website:** Go to <https://www.regulations.gov> and search for Docket ID NRC-2019-0026. Address questions about Docket IDs in *Regulations.gov* to Stacy Schumann; telephone: 301-415-0624; email: Stacy.Schumann@nrc.gov. For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- **NRC's Agencywide Documents Access and Management System (ADAMS):** You may obtain publicly available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "Begin Web-based ADAMS Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by email to PDR.Resource@nrc.gov.

- **NRC's PDR:** You may examine and purchase copies of public documents, by appointment, at the NRC's PDR, Room P1 B35, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. To make an appointment to visit the PDR, please send an email to PDR.Resource@nrc.gov or call 1-800-397-4209 or 301-415-4737, between 8:00 a.m. and 4:00 p.m. Eastern Time (ET), Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Christine Pineda, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone: 301-415-6789, email: Christine.Pineda@nrc.gov.

SUPPLEMENTARY INFORMATION: In the **Federal Register** on January 13, 2023, in FR Doc. 2023-00273, on page 2378, in the first column, first line, the date of "January 5, 2022" is corrected to read "January 5, 2023."

Dated: January 17, 2023.

For the Nuclear Regulatory Commission.

Christopher M. Regan,

Director, Division of Rulemaking, Environmental, and Financial Support, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2023-01109 Filed 1-20-23; 8:45 am]

BILLING CODE 7590-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-96674; File No. SR-C2-2023-001]

Self-Regulatory Organizations; Cboe C2 Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Cboe Data Services Section of the Fees Schedule

January 17, 2023.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on January 3, 2023, Cboe C2 Exchange, Inc. (the "Exchange" or "C2") filed with the Securities and Exchange Commission (the "Commission") the proposed rules change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe C2 Exchange, Inc. (the "Exchange" or "C2") proposes to update its Fees Schedule. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (http://markets.cboe.com/us/options/regulation/rule_filings/ctwo/), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Cboe Data Services, LLC ("CDS") section of its Fees Schedule, effective January 3, 2023. The Exchange proposes to modify its fees relating to the distribution of the BBO data feed.³ Particularly, the Exchange proposes to modify the current User Fee and adopt a BBO Enterprise Fee. The Exchange also proposes to rename the "BBO data feed" to "C2 Options Top Data Feed" (or "C2 Options Top Data"), and use the proposed name herein, in order to align with the naming convention used by the Exchange's affiliated options exchanges for similar data products.⁴

The Exchange first proposes to modify its current User Fees. The Exchange currently charges a "User Fee", payable by a Customer,⁵ of \$50 per month per Device⁶ or user ID for use of the data in the C2 Options Top Data Feed by "Display Only Service"⁷ users. The current User fee is payable only for "external" Display Only Service users (Devices or user IDs of Display Only Service users who are not employees or natural person independent contractors of the Customer, the Customer's

affiliates, or an authorized service facilitator).⁸ The Exchange proposes to eliminate the current User fee (and corresponding description (other than the definition of "Device") in the Fee Schedule) and in its place adopt Professional and Non-Professional User fees for C2 Options Top Data. Particularly, the Exchange proposes to charge distributors that redistribute C2 Options Top Data different fees for their Professional Users⁹ and Non-Professional Users¹⁰ (and codify the definitions in the Fee Schedule). The Exchange proposes to assess a monthly fee for Professional Users of \$5.00 per User and a monthly fee of \$0.10 per Non-Professional User.¹¹ The Exchange also proposes to clarify in the Fee Schedule that User fees for Professional Users are payable for both "internal" Professional Users (Devices or user IDs of employees of a Customer) and "external" Professional Users (Devices or user IDs of Professional Users who receive the Data from a Customer and are not employed by the Customer), as well as make clear that Non-Professional Users must be external since a person who uses the Data for a commercial purpose cannot be a Non-Professional User.

The Exchange lastly proposes to establish a \$10,000 per month Enterprise Fee that will permit a recipient firm who receives C2 Options Top Data from a Distributor to receive

the data for an unlimited number of Professional and Non-Professional Users. The Enterprise Fee is an alternative to User fees and will permit a recipient firm who receives C2 Options Top Data from a Distributor to pay a flat fee to receive the data for an unlimited number of Professional and Non-Professional Users, which the Exchange proposes to make clear in the Fee Schedule. The Enterprise Fee may provide a recipient an opportunity to reduce its fees. For example, if a recipient firm has 10,000 Professional Users who each receive C2 Options Top at \$5.00 per month (as proposed), then that recipient firm will pay \$50,000 per month in Professional Users fees. If the recipient firm instead were to purchase the proposed Enterprise license, the recipient firm would alternatively pay a flat fee of \$10,000 for an unlimited number of Professional and Non-Professional Users. A recipient firm must pay a separate Enterprise Fee for each Distributor that controls the display of C2 Options Top if it wishes such User to be covered by an Enterprise Fee rather than by per User fees. A recipient firm that pays the Enterprise Fee will not have to report its number of such Users on a monthly basis. Rather, every six months, the recipient firm must provide the Exchange with a count of the total number of authorized person users of each product, including both Professional and Non-Professional Users. The Exchange notes that the purchase of an Enterprise license is voluntary, and a firm may elect to instead use the per User structure and benefit from the proposed per User Fees described above. For example, a firm that does not have a sufficient number of subscribers to benefit from purchase of the license need not do so.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the "Act") and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of section 6(b) of the Act.¹² Specifically, the Exchange believes the proposed rule change is consistent with the section 6(b)(5)¹³ requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to,

³ The BBO Data Feed is a real-time data feed that includes the following information: (i) outstanding quotes and standing orders at the best available price level on each side of the market; (ii) executed trades time, size, and price; (iii) totals of customer versus non-customer contracts at the best bid and offer ("BBO"); (iv) all-or-none contingency orders priced better than or equal to the BBO; (v) expected opening price and expected opening size; (vi) end-of-day summaries by product, including open, high, low, and closing price during the trading session; (vii) recap messages any time there is a change in the open, high, low or last sale price of a listed option; (viii) COB information; and (ix) product IDs and codes for all listed options contracts. The quote and last sale data contained in the BBO data feed is identical to the data sent to the Options Price Reporting Authority ("OPRA") for redistribution to the public. This data feed is made available by the Exchange's affiliate CDS.

⁴ See Cboe BZX Options Fee Schedule and Cboe EDGX Options Fee Schedule.

⁵ A "Customer" is any person, company or other entity that, pursuant to a market data agreement with CDS, is entitled to receive data, either directly from CDS or through an authorized redistributor (i.e., a Customer or an extranet service provider), whether that data is distributed externally or used internally.

⁶ A "Device" means any computer, workstation or other item of equipment, fixed or portable, that receives, accesses and/or displays data in visual, audible or other form.

⁷ Display Only Service allows a natural person end-user to view and manipulate data using the Customer's computerized service, but not to save, copy, export or transfer the data or any results of the manipulation to any other computer hardware, software or media, except for printing it to paper or other non-magnetic media.

⁸ Customers who distribute C2 Options Top Data to external users via a Display Only service must report to CDS the number of authorized external devices that receive C2 Options Top data from the Customer during a calendar month within 15 days after such month in the manner and format specified by CDS from time to time to determine applicable fees.

⁹ A "Professional User" is any natural person recipient of Data who is not a Non-Professional User.

¹⁰ A "Non-Professional User" is a natural person or qualifying trust that uses Data only for personal purposes and not for any commercial purpose and, for a natural person who works in the United States, is not: (i) registered or qualified in any capacity with the Securities and Exchange Commission, the Commodities Futures Trading Commission, any state securities agency, any securities exchange or association, or any commodities or futures contract market or association; (ii) engaged as an "investment adviser" as that term is defined in section 201(11) of the Investment Advisors Act of 1940 (whether or not registered or qualified under that Act); or (iii) employed by a bank or other organization exempt from registration under federal or state securities laws to perform functions that would require registration or qualification if such functions were performed for an organization not so exempt; or, for a natural person who works outside of the United States, does not perform the same functions as would disqualify such person as a Non-Professional User if he or she worked in the United States. Professional User.

¹¹ Distributors that receive C2 Options Top Data will be required to count every Professional User and Non-Professional User to which they provide the data feed.

¹² 15 U.S.C. 78f(b).

¹³ 15 U.S.C. 78f(b)(5).

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 section 6(b)(4) of the Act,¹⁴ which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its Trading Permit Holders and other persons using its facilities.

The Exchange first notes that it operates in a highly competitive environment. Indeed, there are currently 16 registered options exchanges that trade options. Based on publicly available information, no single options exchange has more than 18% of the market share.¹⁵ The Exchange believes top-of-book quotation and transaction data is highly competitive as national securities exchanges compete vigorously with each other to provide efficient, reliable, and low-cost data to a wide range of investors and market participants. Indeed, there are several competing products offered by other national securities exchanges today, not counting products offered by the Exchange's affiliates, and each of the Exchange's affiliated U.S. options exchanges also offers similar top-of-book data.¹⁶ Each of those exchanges offer top-of-book quotation and last sale information based on their own quotation and trading activity that is substantially similar to the information provided by the Exchange through the C2 Options Top Data Feed. Further, the quote and last sale data contained in the C2 Data Feed is identical to the data sent to OPRA for redistribution to the public.¹⁷ Accordingly, market participants can substitute C2 Options Top Data with feeds from other exchanges and/or through OPRA. Exchange top-of-book data is therefore widely available today from a number of different sources.

Moreover, the C2 Options Top Data Feed is distributed and purchased on a

voluntary basis, in that neither the Exchange nor market data distributors are required by any rule or regulation to make this data available. Accordingly, Distributors and Users can discontinue use at any time and for any reason, including due to an assessment of the reasonableness of fees charged. As described above, market participants have a wide variety of alternative market data products from which to choose, such as similar proprietary data products offered by other exchanges and consolidated data. Further, the Exchange is not required to make any proprietary data products available or to offer any specific pricing alternatives to any customers. Moreover, all broker-dealers involved in order routing must take consolidated data from OPRA, and proprietary data feeds cannot be used to meet that particular requirement. As such, all proprietary data feeds are optional.

The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Particularly, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system "has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies."¹⁸ Making similar data products available to market participants fosters competition in the marketplace, and constrains the ability of exchanges to charge supracompetitive fees. In the event that a market participant views one exchange's data product as more or less attractive than the competition they can and do switch between similar products. The proposed fees are a result of the competitive environment, as the Exchange seeks to adopt fees to attract purchasers of C2 Options Top Data.

The Exchange believes the proposed changes to adopt new Professional and Non-Professional User fees are reasonable as the User fees continue to be lower than User fees assessed by other exchanges for similar data.¹⁹

Moreover, External users will now be subject to lower fees as the Exchange proposes to significantly reduce the monthly User fees from \$50 per External User to \$5.00 per Professional User or \$0.10 per Non-Professional User. The Exchange believes that the proposed fees are equitable and not unfairly discriminatory because they will be charged uniformly to recipient firms and Users. The fee structure of differentiated Professional and Non-Professional fees that are paid by both Internal and External Distributors has long been used by other exchanges, including the Exchange, for their proprietary data products, and by the OPRA plan in order to reduce the price of data to retail investors and make it more broadly available.²⁰ The Exchange also believes offering C2 Options Top Data to Non-Professional Users at a lower cost than Professional Users results in greater equity among data recipients, as Professional Users are categorized as such based on their employment and participation in financial markets, and thus, are compensated to participate in the markets. Although Non-Professional Users too can receive significant financial benefits through their participation in the markets, the Exchange believes it is reasonable to charge more to those Users who are more directly engaged in the markets.

The proposed Enterprise Fee for C2 Options Top Feed is equitable and reasonable as the proposed fee could result in a fee reduction for recipient firms with a large number of Professional and Non-Professional Users. If a recipient firm has a smaller number of Professional Users of C2 Options Top Data, then it may continue using the per User structure and benefit from the proposed per User Fee reductions. By reducing prices for recipient firms with a large number of Professional and Non-Professional Users, the Exchange believes that more firms may choose to receive and to distribute C2 Options Top Data, thereby expanding the distribution of this market data for the benefit of investors.

The Exchange further believes that the proposed Enterprise Fee is reasonable because it will simplify reporting for

¹⁴ 15 U.S.C. 78f(b)(4).

¹⁵ See Cboe Global Markets U.S. Options Market Month-to-Date Volume Summary (December 27, 2022), available at https://markets.cboe.com/us/options/market_statistics/.

¹⁶ See e.g., NYSE Arca Options Proprietary Market Data Fees Schedule, MIAA Options Exchange, Fee Schedule, Section 6 (Market Data Fees), Nasdaq PHLX Options 7 Pricing Schedule, Section 10 (Proprietary Data Feed Fees) and Cboe Data Services, LLC Fees Schedule.

¹⁷ The Exchange notes that CDS makes available to "Customers" the BBO data and last sale data that is included in the C2 Options Top Data Feed no earlier than the time at which the Exchange sends that data to OPRA.

¹⁸ See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) ("Regulation NMS Adopting Release").

¹⁹ See e.g., Nasdaq PHLX Options 7 Pricing Schedule, Section 10 (Proprietary Data Feed Fees), which provides for a fee of \$40 per month to professional users and \$1.00 per month to non-professional users of Top of PHLX Options (TOPO) Data. See also NYSE American Options Proprietary Market Data Fees schedule, which provides for a fee of \$50 per month to professional users and \$1.00 per month to non-professional users of American Options Top Data.

²⁰ See, e.g., Securities Exchange Act Release No. 59544 (March 9, 2009), 74 FR 11162 (March 16, 2009) (SR-NYSE-2008-131) (establishing the \$15 Non-Professional User Fee (Per User) for NYSE OpenBook); See, e.g., Securities Exchange Act Release No. 67589 (August 2, 2012), 77 FR 47459 (August 8, 2012) (revising OPRA's definition of the term "Nonprofessional"); and See Securities Exchange Act Release No. 70684 (October 15, 2013), 78 FR 62849 (October 22, 2013) (SR-C2-2013-035) (establishing Professional and Non-Professional User fees for C2 COB Data Feed).

certain recipients that have large numbers of Professional and Non-Professional Users. Firms that pay the proposed Enterprise Fee will not have to report the number of Users on a monthly basis as they currently do, but rather will only have to count authorized users every six months, which is a significant reduction in administrative burden. Finally, as described above the Enterprise Fee is entirely optional. A firm that does not have a sufficient number of subscribers to benefit from purchase of the license need not do so.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change would result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange operates in a highly competitive environment, and its ability to price top-of-book data is constrained by competition among exchanges that offer similar data products to their customers. Top-of-book data is broadly disseminated by competing U.S. options exchanges and through OPRA. There are therefore a number of alternative products available to market participants and investors, including products offered by certain competing exchanges. In this competitive environment potential subscribers are free to choose which competing product to purchase to satisfy their need for market information. Often, the choice comes down to price, as market data customers look to purchase cheaper data products, and quality, as market participants seek to purchase data that represents significant market liquidity.

The Exchange believes that the proposed fees do not put any market participants at a relative disadvantage compared to other market participants. As discussed, the proposed fees would apply to all similarly situated recipient firms of C2 Options Top on an equal and non-discriminatory basis. The Exchange believes the differentiated fees for Professional and Non-Professional Users of C2 Options Top is appropriate given Professional Users are categorized as such based on their employment and participation in financial markets, and thus, are compensated to participate in the markets. Non-Professional Users too can receive significant financial benefits through their participation in the markets, however the Exchange believes it is reasonable to charge more to those Users who are more directly engaged in the markets. The Exchange therefore believes that the proposed fee neither favors nor penalizes one or more

categories of market participants in a manner that would impose an undue burden on competition.

The Exchange believes that the proposed fees do not impose a burden on competition or on other SROs that is not necessary or appropriate in furtherance of the purposes of the Act. In particular, market participants are not forced to subscribe to C2 Options Top Data, or any of the Exchange's data feeds, as described above. Also as described above, there are numerous substitute products offered by other national securities exchanges, as well as OPRA. Because market data customers can find suitable substitute feeds, an exchange that overprices its market data products stands a high risk that users may substitute another product. These competitive pressures ensure that no one exchange's market data fees can impose an undue burden on competition, and the Exchange's proposed fees do not do so here.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any written comments from members or other interested parties.

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 Act²¹ and paragraph (f) of Rule 19b-4²² 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:

²¹ 15 U.S.C. 78s(b)(3)(A).

²² 17 CFR 240.19b-4(f).

Electronic Comments

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-C2-2023-001 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-C2-2023-001. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-C2-2023-001 and should be submitted on or before February 13, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²³

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2023-01116 Filed 1-20-23; 8:45 am]

BILLING CODE 8011-01-P

²³ 17 CFR 200.30-3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-96682; File No. SR-NYSEARCA-2023-02]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Its NYSE Arca Equities Fees and Charges

January 17, 2023.

Pursuant to section 19(b)(1)¹ of the Securities Exchange Act of 1934 (the “Act”),² and Rule 19b-4 thereunder,³ notice is hereby given that on January 3, 2023, NYSE Arca, Inc. (“NYSE Arca” or the “Exchange”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its NYSE Arca Equities Fees and Charges (the “Fee Schedule”) with respect to certain regulatory fees related to the Central Registration Depository (“CRD” or “CRD system”), which are collected by the Financial Industry Regulatory Authority, Inc. (“FINRA”). The Exchange proposes to implement the fee change on January 3, 2023. 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 Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Fee Schedule with respect to certain regulatory fees collected by FINRA for use of CRD.⁴ The Exchange proposes to implement the fee changes effective January 3, 2023.

FINRA collects and retains certain regulatory fees via CRD for the registration of associated persons of Exchange ETP Holders that are not FINRA members (“Non-FINRA ETP Holders”).⁵ CRD fees are user-based, and there is no distinction in the cost incurred by FINRA if the user is a FINRA member or a Non-FINRA ETP Holder.

FINRA recently amended two of the fees assessed for use of the CRD system.⁶ Accordingly, the Exchange proposes to amend the Fee Schedule to mirror the fees assessed by FINRA, which will be implemented concurrently with the amended FINRA fee as of January 2023.⁷ Specifically, the Exchange proposes to amend the Fee Schedule to modify the fee charged to Non-FINRA ETP Holders for additional processing of each initial or amended Form U4, Form U5 or Form BD that includes the initial reporting, amendment, or certification of one or more disclosure events or proceedings

⁴ CRD is the central licensing and registration system for the U.S. securities industry. The CRD system enables individuals and firms seeking registration with multiple states and self-regulatory organizations to do so by submitting a single form, fingerprint card, and a combined payment of fees to FINRA. Through the CRD system, FINRA maintains the qualification, employment, and disciplinary histories of registered associated persons of broker-dealers.

⁵ The Exchange originally adopted fees for use of the CRD system in 2005 and amended those fees in 2013 and 2022. See Securities Exchange Act Release No. 51641 (May 2, 2005), 70 FR 24155 (May 6, 2005) (SR-PCX-2005-49); Securities Exchange Act Release No. 68588 (January 4, 2013), 78 FR 2473 (January 11, 2013) (SR-NYSEArca-2012-143); Securities Exchange Act Release No. 93900 (January 5, 2022), 87 FR 1451 (January 11, 2022) (SR-NYSEArca-2021-104). While the Exchange lists these fees in its Fee Schedule, it does not collect or retain these fees.

⁶ See Securities Exchange Act Release No. 90176 (October 14, 2020), 85 FR 66592 (October 20, 2020) (SR-FINRA-2020-032).

⁷ The Exchange notes that it has only adopted the CRD system fees charged by FINRA to Non-FINRA ETP Holders when such fees are applicable. In this regard, certain FINRA CRD system fees and requirements are specific to FINRA members, but do not apply to NYSE Arca-only ETP Holders. Non-FINRA ETP Holders have been charged CRD system fees since 2005. See note 5, *supra*. ETP Holders that are also FINRA members are charged CRD system fees according to Section 4 of Schedule A to the FINRA By-Laws.

from \$110 to \$155⁸ and the fee for processing and posting to the CRD system each set of fingerprints submitted electronically to FINRA, plus any other charge that may be imposed by the U.S. Department of Justice for processing each set of fingerprints, from \$15 to \$20.⁹

The Exchange notes that the proposed change is not otherwise intended to address any other issues surrounding regulatory fees, and the Exchange is not aware of any problems that ETP Holders would have in complying with the proposed change.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act,¹⁰ in general, and furthers the objectives of section 6(b)(4)¹¹ of the Act, in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges. The Exchange also believes that the proposed rule change is consistent with section 6(b)(5) of the Act,¹² in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that the proposed fee change is reasonable because the fee will be identical to that adopted by FINRA as of January 2023 for use of the CRD system to submit an initial or amended Form U4, Form U5 or Form BD that includes the initial reporting, amendment, or certification of one or more disclosure events or proceedings and the posting to CRD each set of fingerprints submitted electronically to FINRA. The costs of operating and improving the CRD system are similarly borne by FINRA when a Non-FINRA ETP Holder uses the CRD system; accordingly, the fees collected for such use should, as proposed by the Exchange, mirror the fees assessed to FINRA members. In addition, as FINRA noted in amending its fees, it believes that its proposed

⁸ See Section (4)(b)(3) of Schedule A to the FINRA By-laws.

⁹ See Section (4)(b)(4) of Schedule A to the FINRA By-laws.

¹⁰ 15 U.S.C. 78f(b).

¹¹ 15 U.S.C. 78f(b)(4).

¹² 15 U.S.C. 78f(b)(5).

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

pricing structure is reasonable and correlates fees with the components that drive its regulatory costs to the extent feasible. The Exchange further believes that the change is reasonable because it will provide greater specificity regarding the CRD system fees that are applicable to Non-FINRA ETP Holders. All similarly situated ETP Holders are subject to the same fee structure, and every ETP Holder must use the CRD system for registration and disclosure. Accordingly, the Exchange believes that the fees collected for such use should likewise increase in lockstep with the fees assessed to FINRA members, as is proposed by the Exchange.

The Exchange also believes that the proposed fee change provides for the equitable allocation of reasonable fees and other charges, and does not unfairly discriminate between customers, issuers, brokers, and dealers. The fee applies equally to all individuals and firms required to report information the CRD system, and the proposed change will result in the same regulatory fees being charged to all ETP Holders required to report information to CRD and for services performed by FINRA regardless of whether such ETP Holders are FINRA members. Accordingly, the Exchange believes that the fee collected for such use should increase in lockstep with the fee adopted by FINRA as of January 2023, as is proposed by the Exchange.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with section 6(b)(8) of the Act,¹³ the Exchange believes that the proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Specifically, the Exchange believes that the proposed change will reflect fees that will be assessed by FINRA as of January 2023 and will thus result in the same regulatory fees being charged to all ETP Holders required to report information to the CRD system and for services performed by FINRA, regardless of whether or not such ETP Holders are FINRA members.

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 of Commission Action

The foregoing rule change is effective upon filing pursuant to section 19(b)(3)(A)¹⁴ of the Act and subparagraph (f)(2) of Rule 19b-4¹⁵ thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under section 19(b)(2)(B)¹⁶ of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-NYSEARCA-2023-02 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-NYSEARCA-2023-02. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the

proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSEARCA-2023-02, and should be submitted on or before February 13, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁷

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2023-01122 Filed 1-20-23; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-96681; File No. SR-NYSE-2023-01]

Self-Regulatory Organizations; NYSE National, Inc.; Notice of Filing of Proposed Change To Amend Its Schedule of Fees and Rebates

January 17, 2023.

Pursuant to section 19(b)(1)¹ of the Securities Exchange Act of 1934 (the "Act"),² and Rule 19b-4 thereunder,³ notice is hereby given that on January 3, 2023, NYSE National, Inc. ("NYSE National" or the "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I 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.

¹⁷ 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.

¹³ See 15 U.S.C. 78f(b)(8).

¹⁴ 15 U.S.C. 78s(b)(3)(A).

¹⁵ 17 CFR 240.19b-4(f)(2).

¹⁶ 15 U.S.C. 78s(b)(2)(B).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Schedule of Fees and Rebates (the "Fee Schedule") with respect to certain regulatory fees related to the Central Registration Depository ("CRD" or "CRD system"), which are collected by the Financial Industry Regulatory Authority, Inc. ("FINRA"). The Exchange proposes to implement the fee change on January 3, 2023. The proposed change is available on the Exchange's website at www.nyse.com, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the 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 Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Fee Schedule with respect to certain regulatory fees collected by FINRA for use of CRD.⁴ The Exchange proposes to implement the fee changes effective January 3, 2023.

FINRA collects and retains certain regulatory fees via CRD for the registration of associated persons of Exchange ETP Holders that are not FINRA members ("Non-FINRA ETP Holders").⁵ CRD fees are user-based,

and there is no distinction in the cost incurred by FINRA if the user is a FINRA member or a Non-FINRA ETP Holder.

FINRA recently amended two of the fees assessed for use of the CRD system.⁶ Accordingly, the Exchange proposes to amend the Fee Schedule to mirror the fees assessed by FINRA, which will be implemented concurrently with the amended FINRA fee as of January 2023.⁷ Specifically, the Exchange proposes to amend the Fee Schedule to modify the fee charged to Non-FINRA ETP Holders for additional processing of each initial or amended Form U4, Form U5 or Form BD that includes the initial reporting, amendment, or certification of one or more disclosure events or proceedings from \$110 to \$155⁸ and the fee for processing and posting to the CRD system each set of fingerprints submitted electronically to FINRA, plus any other charge that may be imposed by the U.S. Department of Justice for processing each set of fingerprints, from \$15 to \$20.⁹

The Exchange notes that the proposed change is not otherwise intended to address any other issues surrounding regulatory fees, and the Exchange is not aware of any problems that ETP Holders would have in complying with the proposed change.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act,¹⁰ in general, and furthers the objectives of section 6(b)(4)¹¹ of the Act, in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges. The Exchange also believes that the proposed rule change is consistent with section 6(b)(5) of the Act,¹² in that it is designed to promote just and equitable principles of

the Exchange lists these fees in its Fee Schedule, it does not collect or retain these fees.

⁶ See Securities Exchange Act Release No. 90176 (October 14, 2020), 85 FR 66592 (October 20, 2020) (SR-FINRA-2020-032).

⁷ The Exchange notes that it has only adopted the CRD system fees charged by FINRA to Non-FINRA ETP Holders when such fees are applicable. In this regard, certain FINRA CRD system fees and requirements are specific to FINRA members, but do not apply to NYSE National-only ETP Holders. Non-FINRA ETP Holders have been charged CRD system fees since 2018. See note 5, *supra*. ETP Holders that are also FINRA members are charged CRD system fees according to Section 4 of Schedule A to the FINRA By-Laws.

⁸ See Section (4)(b)(3) of Schedule A to the FINRA By-laws.

⁹ See Section (4)(b)(4) of Schedule A to the FINRA By-laws.

¹⁰ 15 U.S.C. 78f(b).

¹¹ 15 U.S.C. 78f(b)(4).

¹² 15 U.S.C. 78f(b)(5).

trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that the proposed fee change is reasonable because the fee will be identical to that adopted by FINRA as of January 2023 for use of the CRD system to submit an initial or amended Form U4, Form U5 or Form BD that includes the initial reporting, amendment, or certification of one or more disclosure events or proceedings and the posting to CRD each set of fingerprints submitted electronically to FINRA. The costs of operating and improving the CRD system are similarly borne by FINRA when a Non-FINRA ETP Holder uses the CRD system; accordingly, the fees collected for such use should, as proposed by the Exchange, mirror the fees assessed to FINRA members. In addition, as FINRA noted in amending its fees, it believes that its proposed pricing structure is reasonable and correlates fees with the components that drive its regulatory costs to the extent feasible. The Exchange further believes that the change is reasonable because it will provide greater specificity regarding the CRD system fees that are applicable to Non-FINRA ETP Holders. All similarly situated ETP Holders are subject to the same fee structure, and every ETP Holder must use the CRD system for registration and disclosure. Accordingly, the Exchange believes that the fees collected for such use should likewise increase in lockstep with the fees assessed to FINRA members, as is proposed by the Exchange.

The Exchange also believes that the proposed fee change provides for the equitable allocation of reasonable fees and other charges, and does not unfairly discriminate between customers, issuers, brokers, and dealers. The fee applies equally to all individuals and firms required to report information the CRD system, and the proposed change will result in the same regulatory fees being charged to all ETP Holders required to report information to CRD and for services performed by FINRA regardless of whether such ETP Holders are FINRA members. Accordingly, the Exchange believes that the fee collected for such use should increase in lockstep with the fee adopted by FINRA as of

⁴ CRD is the central licensing and registration system for the U.S. securities industry. The CRD system enables individuals and firms seeking registration with multiple states and self-regulatory organizations to do so by submitting a single form, fingerprint card, and a combined payment of fees to FINRA. Through the CRD system, FINRA maintains the qualification, employment, and disciplinary histories of registered associated persons of broker-dealers.

⁵ The Exchange originally adopted fees for use of the CRD system in 2018 and amended those fees in 2022. See Securities Exchange Act Release No. 83867 (July 23, 2018), 83 FR 35696 (July 27, 2018) (SR-NYSENASD-2018-16); Securities Exchange Act Release Nos. 93903 (January 5, 2022), 87 FR 1466 (January 11, 2022) (SR-NYSENASD-2021-24). While

January 2023, as is proposed by the Exchange.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with section 6(b)(8) of the Act,¹³ the Exchange believes that the proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Specifically, the Exchange believes that the proposed change will reflect fees that will be assessed by FINRA as of January 2023 and will thus result in the same regulatory fees being charged to all ETP Holders required to report information to the CRD system and for services performed by FINRA, regardless of whether or not such ETP Holders are FINRA members.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to section 19(b)(3)(A)¹⁴ of the Act and subparagraph (f)(2) of Rule 19b-4¹⁵ thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under section 19(b)(2)(B)¹⁶ of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-NYSENAT-2023-01 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-NYSENAT-2023-01. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSENAT-2023-01, and should be submitted on or before February 13, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁷

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2023-01121 Filed 1-20-23; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-96680; File No. SR-NYSEARCA-2023-01]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the NYSE Arca Equities Fees and Charges

January 17, 2023.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on January 3, 2023, NYSE Arca, Inc. ("NYSE Arca" or the "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the NYSE Arca Equities Fees and Charges ("Fee Schedule") to amend the fee for Retail Orders with a time-in-force of Day that remove liquidity. 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 Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Fee Schedule to amend the fee for Retail

¹³ See 15 U.S.C. 78f(b)(8).

¹⁴ 15 U.S.C. 78s(b)(3)(A).

¹⁵ 17 CFR 240.19b-4(f)(2).

¹⁶ 15 U.S.C. 78s(b)(2)(B).

¹⁷ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

Orders³ with a time-in-force of Day that remove liquidity. The proposed change responds to the current competitive environment where ETP Holders have a choice among both exchange and off-exchange venues of where to route marketable retail flow.

The Exchange proposes to implement the fee change effective January 3, 2023.

Background

The Exchange operates in a highly competitive market. The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system “has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.”⁴

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.”⁵ Indeed, equity trading is currently dispersed across 16 exchanges,⁶ numerous alternative trading systems,⁷ and broker-dealer internalizers and wholesalers, all competing for order flow. Based on publicly available information, no single exchange currently has more than 17% market share.⁸ Therefore, no exchange

possesses significant pricing power in the execution of equity order flow. More specifically, the Exchange currently has less than 10% market share of executed volume of equities trading.⁹

The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can move order flow, or discontinue or reduce use of certain categories of products. While it is not possible to know a firm’s reason for shifting order flow, the Exchange believes that one such reason is because of fee changes at any of the registered exchanges or non-exchange venues to which a firm routes order flow. The competition for Retail Orders is even more stark, particularly as it relates to exchange versus off-exchange venues.

The Exchange thus needs to compete in the first instance with non-exchange venues for Retail Order flow, and with the 15 other exchange venues for that Retail Order flow that is not directed off-exchange. Accordingly, competitive forces compel the Exchange to use exchange transaction fees and credits, particularly as they relate to competing for Retail Order flow, because market participants can readily trade on competing venues if they deem pricing levels at those other venues to be more favorable.

To respond to this competitive environment, the Exchange has established a number of Retail Tiers, which are designed to provide an incentive for ETP Holders to route Retail Orders to the Exchange by providing higher credits for adding liquidity correlated to an ETP Holder’s higher trading volume in Retail Orders on the Exchange. Under three of these four tiers, *i.e.*, Retail Tier 1, Retail Tier 2, Retail Tier 3 and Retail Step-Up Tier, ETP Holders also do not pay a fee when such Retail Orders have a time-in-force of Day that remove liquidity from the Exchange. Under Retail Tier 4, ETP Holders currently pay a standard fee of \$0.0030 per share for Retail Orders that that remove liquidity.¹⁰

Proposed Rule Change

The proposed rule change is designed to be available to all ETP Holders on the Exchange and is intended to provide ETP Holders an opportunity to not pay a fee for Retail Orders with a time-in-force of Day that remove liquidity from the Exchange. Specifically, the Exchange proposes to adopt new

footnote (f) under the Retail Tiers table.¹¹ Proposed footnote (f) would state that “ETP Holders that increase Retail Orders with a time-in-force of Day that add and remove that is an increase over May 2022 of at least 0.05% of CADV would not pay a fee for Retail Removing with a time-in-force of Day.”

As noted above, ETP Holders that qualify for Retail Tiers 1, 2, 3 and Retail Step-Up Tier currently do not pay a fee for Retail Orders with a time-in-force of Day that remove liquidity from the Exchange. ETP Holders that do not currently qualify for Retail Tiers 1, 2, 3 and Retail Step-Up Tier would benefit from this proposed rule change by increasing the amount of Retail Orders with a time-in-force of Day that add and remove liquidity by 0.05% over their May 2022 CADV. ETP Holders that meet the proposed lower volume requirement would qualify to not pay a fee for Retail Orders with a time-in-force of Day that remove liquidity. ETP Holders that qualify for the proposed no fee would also continue to receive the standard credit of (\$0.0032) per share for Retail Orders that add liquidity.¹²

To illustrate the application of the proposed fee reduction, assume an ETP Holder’s activity of Retail Orders with a time-in-force of Day in the current month is equal to 0.08% of CADV, which is less than Retail Tier 4’s requirement of 0.10% of CADV. Assume further that this ETP Holder has a Step-Up of Retail Orders with a time-in-force of Day from April 2018 of 0.02% of CADV, which is less than Retail Step-Up Tier’s requirement of 0.075% of CADV. Based on this activity, the ETP Holder in this example would receive the standard credit of (\$0.0032) per share for adding Retail liquidity and would pay the standard fee of \$0.0030 per share for removing Retail liquidity, unless the ETP Holder qualifies for better rates under other pricing tiers.

Assume further that the same ETP Holder’s activity of Retail Orders with a time-in-force of Day in May 2022 was equal to 0.02% of CADV. Under the proposed rule change, this ETP Holder would qualify for the proposed no fee because it had an increase of Retail Orders with a time-in-force of Day that add and remove liquidity over May 2022 of 0.06% (0.08% in the current month minus 0.02% in May 2022), which meets the proposed requirement that an ETP Holder’s increase of Retail

³ A Retail Order is an agency order that originates from a natural person and is submitted to the Exchange by an ETP Holder, provided that no change is made to the terms of the order to price or side of market and the order does not originate from a trading algorithm or any other computerized methodology. See Securities Exchange Act Release No. 67540 (July 30, 2012), 77 FR 46539 (August 3, 2012) (SR-NYSEArca-2012-77).

⁴ See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (File No. S7-10-04) (Final Rule) (“Regulation NMS”).

⁵ 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).

⁶ See Cboe U.S. Equities Market Volume Summary, available at https://markets.cboe.com/us/equities/market_share.

⁷ See FINRA ATS Transparency Data, available at <https://otctransparency.finra.org/otctransparency/AtsIssueData>. A list of alternative trading systems registered with the Commission is available at <https://www.sec.gov/foia/docs/atstlist.htm>.

⁸ See Cboe Global Markets U.S. Equities Market Volume Summary, available at http://markets.cboe.com/us/equities/market_share/.

⁹ See *id.*

¹⁰ See Fee Schedule, Section III. Standard Rates—Transactions (applicable when Tier Rates do not apply).

¹¹ With the proposed adoption of new footnote (f) under the Retail Tiers table, the Exchange proposes to renumber current footnote (f) under the Tape B Tiers table as footnote (g) and renumber current footnote (g) under the Tape B Tiers table as footnote (h).

¹² See *supra* note 10.

Orders with a time-in-force of Day that add or remove must be at least 0.05% of CADV over the ETP Holder's May 2022 CADV. Under the proposed rule change, this ETP Holder would continue to receive the standard credit of (\$0.0032) per share for adding Retail liquidity and would not pay a fee for Retail Orders with a time-in-force of Day that remove liquidity.

The purpose of the proposed rule change is to encourage greater participation from ETP Holders and promote additional liquidity in Retail Orders. The Exchange believes that the proposed rule change to adopt a lower volume requirement to qualify for the proposed fee reduction would incentivize ETP Holders to direct a greater number of Retail Orders to the Exchange that add and remove liquidity. As described above, ETP Holders have a choice of where to send their Retail Orders that add and remove liquidity. The Exchange believes that the proposed rule change to reduce fees paid by ETP Holders for Retail Orders could lead to more ETP Holders choosing to route such orders for execution to the Exchange rather than to a competing exchange.

The Exchange does not know how much Retail Order flow ETP Holders choose to route to other exchanges or to off-exchange venues. Without having a view of ETP Holders' activity on other markets and off-exchange venues, the Exchange has no way of knowing whether this proposed rule change would result in any ETP Holder sending more of its Retail Orders to the Exchange. The Exchange cannot predict with certainty how many ETP Holders would avail themselves of this opportunity, but additional liquidity of Retail Orders would benefit all market participants because it would provide greater execution opportunities on the Exchange.

The proposed changes are not otherwise intended to address any other issues, and the Exchange is not aware of any significant problems that market participants would have in complying with the proposed changes.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act,¹³ in general, and furthers the objectives of sections 6(b)(4) and (5) of the Act,¹⁴ in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its

facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Proposed Fee Change Is Reasonable

As discussed above, the Exchange operates in a highly fragmented and competitive market. The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system "has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies."¹⁵

Given this competitive environment, the proposal represents a reasonable attempt to attract additional order flow to the Exchange.

As noted above, the competition for Retail Order flow is stark given the amount of retail limit orders that are routed to non-exchange venues. The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow, or discontinue or reduce use of certain categories of products, in response to fee changes. ETP Holders can choose from any one of the 16 currently operating registered exchanges, and numerous off-exchange venues, to route such order flow. Accordingly, competitive forces constrain exchange transaction fees, particularly as they relate to competing for retail orders. Stated otherwise, changes to exchange transaction fees can have a direct effect on the ability of an exchange to compete for order flow.

In particular, the Exchange believes that the proposal to adopt lower volume requirement to qualify for the proposed fee reduction is reasonable because it is designed to encourage greater participation from ETP Holders and promote additional liquidity in Retail Orders. The Exchange believes it is reasonable to require ETP Holders to meet the applicable volume threshold to qualify for the proposed no fee for Retail Orders with a time-in-force of Day that remove liquidity, which the Exchange believes will encourage ETP Holders to direct more of their Retail Orders to the Exchange. Further, the proposed change is reasonable as it would allow ETP Holders that do not presently qualify for Retail Tiers 1, 2, 3 and Retail Step-Up Tier an additional opportunity to

qualify and not pay a fee for Retail Orders with a time-in-force of Day that remove liquidity.

The Exchange believes that the proposal to adopt reduced fees for ETP Holders that meet the proposed volume requirement is a reasonable means to encourage additional liquidity on the Exchange because ETP Holders would benefit from the greater amounts of displayed liquidity present on a public exchange. The Exchange believes that the proposed lower volume requirement would incentivize additional liquidity to a public exchange to qualify for lower fees for Retail Orders with a time-in-force of Day that remove liquidity, thereby promoting price discovery and transparency and enhancing order execution opportunities for ETP Holders. The proposal is thus reasonable because all ETP Holders would benefit from such increased levels of liquidity. The Exchange notes that ETP Holders are free to shift their order flow to competing venues if they believe other markets offer more favorable fees and credits.

On the backdrop of the competitive environment in which the Exchange currently operates, the proposed rule change is a reasonable attempt to increase liquidity on the Exchange and improve the Exchange's market share relative to its competitors.

The Proposed Fee Change Is an Equitable Allocation of Fees and Credits

The Exchange believes that, for the reasons discussed above, the proposed rule change is an equitable allocation of its fees and credits. The proposed rule change is intended to provide ETP Holders an incentive to send a greater number of Retail Orders to the Exchange in order to qualify and not pay a fee for such orders when removing liquidity from the Exchange, thereby increasing the number of orders that are executed on the Exchange, promoting price discovery and transparency and enhancing order execution opportunities and improving overall liquidity on a public exchange. The Exchange also believes that the proposed change is equitable because it would apply to all similarly situated ETP Holders that remove liquidity. As previously noted, the Exchange operates in a competitive environment, particularly as it relates to attracting Retail Orders to the Exchange. The Exchange does not know how much order flow ETP Holders choose to route to other exchanges or to off-exchange venues. The Exchange believes that pricing is just one of the factors that ETP Holders consider when determining where to direct their order flow. Among

¹³ 15 U.S.C. 78f(b).

¹⁴ 15 U.S.C. 78f(b)(4) and (5).

¹⁵ See *supra* note 3.

other things, factors such as execution quality, fill rates, and volatility, are important and deterministic to ETP Holders in deciding where to send their order flow. The Exchange believes that a number of ETP Holders could qualify for the proposed no fee based on their current trading profile on the Exchange if they choose to direct more of their order flow to the Exchange. However, without having a view of an ETP Holder's activity on other exchanges and off-exchange venues, the Exchange has no way of knowing whether this proposed rule change would result in any ETP Holder directing Retail Orders to the Exchange in order to qualify for the proposed no fee.

The Exchange believes the proposed rule change would improve market quality for all market participants on the Exchange and, as a consequence, attract more Retail Orders to the Exchange, thereby improving market-wide quality and price discovery.

The Proposed Fee Change Is Not Unfairly Discriminatory

The Exchange believes that the proposal to adopt a lower volume requirement to qualify for the proposed fee reduction is not unfairly discriminatory. In the prevailing competitive environment, ETP Holders are free to disfavor the Exchange's pricing if they believe that alternatives offer them better value. Moreover, the proposal neither targets nor will it have a disparate impact on any particular category of market participant. The Exchange believes that the proposed rule change will incentivize ETP Holders to direct a greater number of Retail Orders to a public exchange to qualify for the proposed reduced fee for removing liquidity, thereby promoting price discovery and transparency and enhancing order execution opportunities for ETP Holders. The proposal does not permit unfair discrimination because the proposed volume requirement for removing liquidity would be applied to all similarly situated ETP Holders, who would all be eligible to not pay a fee on an equal basis. Accordingly, no ETP Holder already operating on the Exchange would be disadvantaged by this allocation of fees. The Exchange believes it is not unfairly discriminatory to provide lower fees for removing liquidity as the proposed fee would be provided on an equal basis to all ETP Holders that remove liquidity by meeting the proposed volume requirement. Further, the Exchange believes the proposed reduced fee would provide an incentive for ETP Holders to execute more of their Retail

Orders on the Exchange. The Exchange also believes that the proposed change is not unfairly discriminatory because it is reasonably related to the value to the Exchange's market quality associated with higher volume.

In addition, the submission of orders to the Exchange is optional for ETP Holders in that they could choose whether to submit orders to the Exchange and, if they do, the extent of its activity in this regard.

Finally, the Exchange believes that it is subject to significant competitive forces, as described below in the Exchange's statement regarding the burden on competition.

For the foregoing reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with section 6(b)(8) of the Act,¹⁶ the Exchange believes that the proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Instead, as discussed above, the Exchange believes that the proposed changes would encourage the submission of additional liquidity to a public exchange, thereby promoting market depth, price discovery and transparency and enhancing order execution opportunities for ETP Holders. As a result, the Exchange believes that the proposed change furthers the Commission's goal in adopting Regulation NMS of fostering integrated competition among orders, which promotes "more efficient pricing of individual stocks for all types of orders, large and small."¹⁷

Intramarket Competition. The Exchange believes the proposed rule change does not impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed change is designed to attract Retail Orders to the Exchange. The Exchange believes that the proposed change would incentivize market participants to direct retail order flow to the Exchange. Greater overall order flow, trading opportunities, and pricing transparency would benefit all market participants on the Exchange by enhancing market quality and would continue to encourage ETP Holders to send their orders to the Exchange, thereby contributing towards a robust and well-balanced market ecosystem. The proposed fee reduction would be

available to all similarly situated market participants, and, as such, the proposed change would not impose a disparate burden on competition among market participants on the Exchange. Additionally, the proposed change would apply to all ETP Holders equally in that all ETP Holders would have a reasonable opportunity to meet the volume requirement to qualify for the proposed fee reduction and would not pay a fee for removing liquidity if such criteria is met.

Intermarket Competition. The Exchange believes the proposed rule change does not impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange operates in a highly competitive market in which market participants can readily choose to send their orders to other exchanges and off-exchange venues if they deem fee levels at those other venues to be more favorable. As noted above, the Exchange's market share of intraday trading (*i.e.*, excluding auctions) is currently less than 10%. In such an environment, the Exchange must continually adjust its fees and rebates to remain competitive with other exchanges and with off-exchange venues. Because competitors are free to modify their own fees and credits in response, and because market participants may readily adjust their order routing practices, the Exchange does not believe this proposed fee change would impose any burden on intermarket competition.

The Exchange believes that the proposed change could promote competition between the Exchange and other execution venues, including those that currently offer similar order types and comparable transaction pricing, by encouraging additional orders to be sent to the Exchange for execution.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective upon filing pursuant to section 19(b)(3)(A)¹⁸ of the Act and paragraph (f) thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may

¹⁶ 15 U.S.C. 78f(b)(8).

¹⁷ See *supra* note 3.

¹⁸ 15 U.S.C. 78s(b)(3)(A).

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 (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-NYSEARCA-2023-01 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.
- All submissions should refer to File Number SR-NYSEARCA-2023-01. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal offices of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSEARCA-2023-01, and

should be submitted on or before February 13, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁹

Sherry R. Haywood,
Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-96673; File No. SR-CboeBZX-2023-001]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fee Schedule

January 17, 2023.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on January 3, 2023, Cboe BZX Exchange, Inc. (the "Exchange" or "BZX") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe BZX Exchange, Inc. (the "Exchange" or "BZX Options") 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 the Fee Schedule, effective January 3, 2023. The Exchange proposes to modify its market data fees for BZX Options Top.³ Particularly, the Exchange proposes to modify the Professional and Non-Professional User Fees and the Enterprise Fee for BZX Options Top.

The Exchange first proposes to reduce the Professional and Non-Professional User fees for BZX Options Top. The Exchange currently charges Internal Distributors and External Distributors that redistribute any of the BZX Options Data Feeds different fees for their Professional Users⁴ and Non-Professional Users.⁵ The Exchange currently assesses a monthly fee for Professional Users of \$30.00 per User and a monthly fee of \$1.00 per Non-Professional User.⁶ One User fee allows access to the BZX Options Top Feed and the BZX Options Depth Feed.⁷ The Exchange proposes to reduce the User fees for BZX Options Top. Particularly,

³ BZX Options Top is an uncompressed data feed that offers top of book quotations and execution information based on options orders entered into the System.

⁴ A Professional User of an Exchange Market Data product is any User other than a Non-Professional User.

⁵ A "Non-Professional User" of an Exchange Market Data product is a natural person or qualifying trust that uses Data only for personal purposes and not for any commercial purpose and, for a natural person who works in the United States, is not: (i) registered or qualified in any capacity with the Securities and Exchange Commission, the Commodities Futures Trading Commission, any state securities agency, any securities exchange or association, or any commodities or futures contract market or association; (ii) engaged as an "investment adviser" as that term is defined in section 202(a)(11) of the Investment Advisors Act of 1940 (whether or not registered or qualified under that Act); or (iii) employed by a bank or other organization exempt from registration under federal or state securities laws to perform functions that would require registration or qualification if such functions were performed for an organization not so exempt; or, for a natural person who works outside of the United States, does not perform the same functions as would disqualify such person as a Non-Professional User if he or she worked in the United States.

⁶ Distributors that receive BZX Options Data Feeds are required to count every Professional User and Non-Professional User to which they provide the market data product(s).

⁷ BZX Options Depth is an uncompressed data feed that offers depth of book quotations and execution information based on options orders entered into the System.

¹⁹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

the Exchange proposes to reduce the monthly (i) Professional User fee from \$30 per user to \$5 per user and (ii) Non-Professional User fee from \$1.00 per user to \$0.10 per user. The Exchange also proposes to start charging separate User fees for BZX Options Top and BZX Options Depth Feed. The Exchange therefore proposes to eliminate the language under the BZX Options Top table and BZX Options Depth Feed table that states one User fee allows access to the BZX Options Top Feed and the BZX Options Depth Feed.⁸

The Exchange next proposes to increase the current monthly Enterprise Fee. The Enterprise Fee permits a recipient firm who receives BZX Options Top from a Distributor to receive the data for an unlimited number of Professional and Non-Professional Users. Currently, the Exchange assesses an Enterprise Fee of \$3,500 per month. The Exchange proposes to increase the Enterprise Fee to \$20,000 per month. For example, if a recipient firm had 15,000 Professional Users who each receive BZX Options Top at \$5.00 per month (as proposed), then that recipient firm will pay \$75,000 per month in Professional Users fees. Under the proposed Enterprise Fee, the recipient firm will pay a flat fee of \$20,000 for an unlimited number of Professional and Non-Professional Users. A recipient firm must pay a separate Enterprise Fee for each Distributor that controls the display of BZX Options Top if it wishes such User to be covered by an Enterprise Fee rather than by per User fees. A recipient firm that pays the Enterprise Fee will not have to report its number of such Users on a monthly basis. However, every six months, a recipient firm must provide the Exchange with a count of the total number of authorized users of BZX Options Top, including both Professional and Non-Professional Users.

The Exchange lastly proposes to add references to "Depth Feed" in the description of the Enterprise Fee under the BZX Options Depth Feed table to clarify which data feed such Enterprise fee currently applies to, thereby alleviating potential confusion.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the "Act") and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of

section 6(b) of the Act.⁹ Specifically, the Exchange believes the proposed rule change is consistent with the section 6(b)(5)¹⁰ requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with section 6(b)(4) of the Act,¹¹ which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its Members and other persons using its facilities.

The Exchange first notes that it operates in a highly competitive environment. Indeed, there are currently 16 registered options exchanges that trade options. Based on publicly available information, no single options exchange has more than 18% of the market share.¹² The Exchange believes top-of-book quotation and transaction data is highly competitive as national securities exchanges compete vigorously with each other to provide efficient, reliable, and low-cost data to a wide range of investors and market participants. Indeed, there are several competing products offered by other national securities exchanges today, not counting products offered by the Exchange's affiliates, and each of the Exchange's affiliated U.S. options exchanges also offers similar top-of-book data.¹³ Each of those exchanges offer top-of-book quotation and last sale information based on their own quotation and trading activity that is substantially similar to the information provided by the Exchange through the BZX Options Top Feed. Further, the quote and last sale data contained in the BZX Options Top Feed is identical to the data sent to OPRA for redistribution

to the public.¹⁴ Accordingly, market participants can substitute BZX Options Top with feeds from other exchanges and/or through OPRA. Exchange top-of-book data is therefore widely available today from a number of different sources.

Moreover, the BZX Options Top is distributed and purchased on a voluntary basis, in that neither the Exchange nor market data distributors are required by any rule or regulation to make this data available. Accordingly, Distributors and Users can discontinue use at any time and for any reason, including due to an assessment of the reasonableness of fees charged. As described above, market participants have a wide variety of alternative market data products from which to choose, such as similar proprietary data products offered by other exchanges and consolidated data. Further, the Exchange is not required to make any proprietary data products available or to offer any specific pricing alternatives to any customers. Moreover, all broker-dealers involved in order routing must take consolidated data from OPRA, and proprietary data feeds cannot be used to meet that particular requirement. As such, all proprietary data feeds are optional.

The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Particularly, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system "has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies."¹⁵ Making similar data products available to market participants fosters competition in the marketplace, and constrains the ability of exchanges to charge supracompetitive fees. In the event that a market participant views one exchange's data product as more or less attractive than the competition they can and do switch between similar products. The proposed fees are a result of the competitive environment, as the Exchange seeks to adopt fees to attract purchasers of BZX Options Top Data.

⁹ 15 U.S.C. 78f(b).

¹⁰ 15 U.S.C. 78f(b)(5).

¹¹ 15 U.S.C. 78f(b)(4).

¹² See Cboe Global Markets U.S. Options Market Month-to-Date Volume Summary (December 27, 2022), available at https://markets.cboe.com/us/options/market_statistics/.

¹³ See e.g., NYSE Arca Options Proprietary Market Data Fees Schedule, MIAX Options Exchange, Fee Schedule, Section 6 (Market Data Fees), Nasdaq PHLX Options 7 Pricing Schedule, Section 10 (Proprietary Data Feed Fees) and Cboe Data Services, LLC Fees Schedule.

¹⁴ The Exchange notes that it makes available to "Customers" the BBO data and last sale data that is included in the BZX Options Top Data Feed no earlier than the time at which the Exchange sends that data to OPRA.

¹⁵ See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) ("Regulation NMS Adopting Release").

⁸ The Exchange is not proposing any changes to the current User Fee rates for BZX Options Depth Feed at this time.

The Exchange believes the proposed changes to reduce the current Professional and Non-Professional User fees are reasonable as recipient firms will be subject to lower User fees. Additionally, the User fees continue to be lower than User fees assessed by other exchanges for similar data.¹⁶ The Exchange believes that the proposed fees are equitable and not unfairly discriminatory because they will be charged uniformly to recipient firms and Users. The Exchange also believes continuing to offer BZX Options Top Data to Non-Professional Users at a lower cost than Professional Users results in greater equity among data recipients, as Professional Users are categorized as such based on their employment and participation in financial markets, and thus, are compensated to participate in the markets. Although Non-Professional Users too can receive significant financial benefits through their participation in the markets, the Exchange believes it is reasonable to charge more to those Users who are more directly engaged in the markets.

The Exchange believes the proposed change to start charging separate User fees for BZX Options Top and BZX Options Depth Feed is equitable and reasonable because the Exchange has not charged for separate User Fees for both feeds since BZX Options Top was adopted in March 2018 and the Exchange no longer wishes to continue to have a single fee.¹⁷ Moreover, the Book Depth Data Feed is purely optional. Only those Customers that deem the product to be of sufficient overall value and usefulness would purchase it. Additionally, the Exchange is not required to provide any such waiver to any Distributors of BZX Options Top. The Exchange believes the proposed change is equitable and not unfairly discriminatory as it will apply uniformly to recipient firms.

The proposed increased Enterprise Fee for BZX Options Top Feed is equitable and reasonable as the proposed fee could still result in a fee reduction for recipient firms with a large number of Professional and Non-Professional Users. If a recipient firm

has a smaller number of Professional Users of BZX Options Top, then it may continue using the per User structure and benefit from the proposed per User Fee reductions. By reducing prices for recipient firms with a large number of Professional and Non-Professional Users, the Exchange believes that more firms may choose to receive and to distribute BZX Options Top Data, thereby expanding the distribution of this market data for the benefit of investors.

The Exchange further believes that the Enterprise Fee, even as amended, is reasonable because it simplifies reporting for certain recipients that have large numbers of Professional and Non-Professional Users. Firms that pay the proposed Enterprise Fee do have to report the number of Users on a monthly basis as they currently do, but rather only have to count authorized users every six months, which is a significant reduction in administrative burden. Finally, as described above the Enterprise Fee is entirely optional. A firm that does not have a sufficient number of subscribers to benefit from purchase of the license need not do so.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change would result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange operates in a highly competitive environment, and its ability to price top-of-book data is constrained by competition among exchanges that offer similar data products to their customers. Top-of-book data is broadly disseminated by competing U.S. options exchanges and through OPRA. There are therefore a number of alternative products available to market participants and investors, including products offered by certain competing exchanges. In this competitive environment potential subscribers are free to choose which competing product to purchase to satisfy their need for market information. Often, the choice comes down to price, as market data customers look to purchase cheaper data products, and quality, as market participants seek to purchase data that represents significant market liquidity.

The Exchange believes that the proposed fees do not put any market participants at a relative disadvantage compared to other market participants. As discussed, the proposed fees would apply to all similarly situated recipient firms of BZX Options Top on an equal and non-discriminatory basis. The Exchange believes the differentiated fees

for Professional and Non-Professional Users of BZX Options Top is appropriate given Professional Users are categorized as such based on their employment and participation in financial markets, and thus, are compensated to participate in the markets. Non-Professional Users too can receive significant financial benefits through their participation in the markets, however the Exchange believes it is reasonable to charge more to those Users who are more directly engaged in the markets. The Exchange therefore believes that the proposed fee neither favors nor penalizes one or more categories of market participants in a manner that would impose an undue burden on competition.

The Exchange believes that the proposed fees do not impose a burden on competition or on other SROs that is not necessary or appropriate in furtherance of the purposes of the Act. In particular, market participants are not forced to subscribe to BZX Options Top, or any of the Exchange's data feeds, as described above. Also as described above, there are numerous substitute products offered by other national securities exchanges, as well as OPRA. Because market data customers can find suitable substitute feeds, an exchange that overprices its market data products stands a high risk that users may substitute another product. These competitive pressures ensure that no one exchange's market data fees can impose an undue burden on competition, and the Exchange's proposed fees do not do so here.

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 Act¹⁸ and paragraph (f) of Rule 19b-4¹⁹ 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

¹⁶ See e.g., Nasdaq PHLX Options 7 Pricing Schedule, Section 10 (Proprietary Data Feed Fees), which provides for a fee of \$40 per month to professional users and \$1.00 per month to non-professional users of Top of PHLX Options (TOPO) Data. See also NYSE American Options Proprietary Market Data Fees schedule, which provides for a fee of \$50 per month to professional users and \$1.00 per month to non-professional users of American Options Top Data.

¹⁷ See Securities Exchange Act Release No. 82874 (March 14, 2018), 83 FR 12210 (March 20, 2018) (SR-ChoeBZX-2018-017).

¹⁸ 15 U.S.C. 78s(b)(3)(A).

¹⁹ 17 CFR 240.19b-4(f).

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 (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-CboeBZX-2023-001 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-CboeBZX-2023-001. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for

inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-CboeBZX-2023-001 and should be submitted on or before February 13, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁰

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023-01115 Filed 1-20-23; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-96679; File No. SR-CboeEDGX-2023-003]

Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Exchange's Fees Schedule Concerning Membership Fees and Market Maker Appointment Fees

January 17, 2023.

Pursuant to section 19(b)(1) ¹ of the Securities Exchange Act of 1934 (the "Act"),² and Rule 19b-4 thereunder,³ notice is hereby given that on January 3, 2023, Cboe EDGX Exchange, Inc. (the "Exchange" or "EDGX") 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.

²⁰ 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.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe EDGX Exchange, Inc. (the "Exchange" or "EDGX Options") proposes to amend its Fees Schedule. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (http://markets.cboe.com/us/options/regulation/rule_filings/edgx/), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the 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 Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to adopt new Membership fees. First, the Exchange proposes to establish a monthly Participant Fee for Options Members of the Exchange of \$500. Additionally, EDGX Options Market Makers would be assessed a Market Maker Participant Fee of \$750 per month (*i.e.*, Market Makers would pay a monthly fee of \$1,250). The Participant Fees are non-refundable. If a firm becomes a Member during a calendar month after the first trading day of the month, the participant fee for the Member for that calendar month will be prorated based on the remaining trading days in the calendar month.

The Exchange also proposes to adopt fees relating to Market Maker appointments (set forth in the “Market Maker Appointments Sliding Scale”) which will be based on an Appointment Unit Tier schedule that assigns an appointment weight to each class within a tier. Particularly, EDGX Options

Market Makers must select class appointments in the classes they seek to make markets electronically.⁴ As proposed, a Market Maker will be charged for one or more “Appointment Units” (which will scale from 1 “unit” to more than 6 “units”), depending on which classes they select appointments

in. All classes will be placed within a specific tier according to trading volume statistics (excluding the proposed AA Tier), and assigned an “appointment weight” depending upon its tier location as follows:

Appointment unit tier	Option class	Appointment weight
AA	IWM	.50
	SPY	.50
	VXX	.100
A*	Classes 1–60	.100
B*	Classes 61–120	.060
C*	Classes 121–345	.040
D*	Classes 346–570	.025
E*	Classes 571–999	.015
F*	All Remaining Classes	.001

* Excludes Tier AA.

The Exchange will rebalance the above tiers (excluding the “AA” tier above) once each calendar quarter, which may result in additions or deletions to their composition and announces such rebalances pursuant to Exchange Rule 16.3 at least 10 business days before the rebalance takes effect. The proposed appointment unit tier assignment and rebalances are based on national average daily volume. When a class changes tiers, it will be assigned the appointment unit of that tier. Appointment weights for each assigned class will be summed for each Market Maker ID used to trade to obtain the total appointment units. If the sum of appointments is a fractional amount, the total will be rounded up to the next highest whole Appointment Unit. Total quantity will be determined by the highest quantity used at any point during the month. The following lists the proposed progressive monthly fees for Appointment Units:⁵

Appointment units	Monthly fee
1	\$0
2	500
3–5	350
>6	100

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the “Act”) and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of section 6(b) of the Act.⁶ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)⁷ requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the section 6(b)(5)⁸ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that there is value in becoming a Member of the

Exchange and that the proposed Participant Fees are reasonable. The proposed fees are also significantly lower than the membership fees imposed by several other options exchanges that charge such fees.⁹ They are also comparable to fees assessed by the Exchange’s affiliated options exchange Cboe BZX Exchange, Inc. (“BZX Options”).¹⁰ Other national securities exchanges also recently adopted participant fees for their exchange members.¹¹ The Exchange also historically has not, currently does not, nor does it presently contemplate charging any application fees for Membership nor so-called “headcount fees,” (e.g., fees charged for each Form U4 filed for registration of a representative or a principal or the transfer or re-licensing of such personnel¹²), further highlighting the reasonableness of the proposed Participant Fees. Furthermore, EDGX Options Members have not been assessed any membership-related fees since the platform became available over 7 years ago. The proposed changes are designed to update fees for the Exchange’s services to reflect their current value—rather than their value when it was a new exchange seven years

⁴ See EDGX Options Rule 22.3(a).

⁵ For example, if a Market Maker’s total appointment units amount to 2.5 units, the Market Maker will be assessed a total monthly appointment fee of \$850 (1 appointment unit at \$0, 1 appointment unit at \$500 and 1 appointment unit at \$350).

⁶ 15 U.S.C. 78f(b).

⁷ 15 U.S.C. 78f(b)(5).

⁸ *Id.*

⁹ See e.g., PHLX Section 8A, Permit and Registration Fees, which generally assesses monthly Permit Fees between \$4,000 and \$6,000. See also, BOX Options Fee Schedule, Section IX Participant

Fees, which assesses non-Market Makers a Participant Fee of \$1,500 per month and assesses Market Maker’s Trading Permit fees between \$4,000 and \$10,000 per month; NYSE American Options Fees Schedule, Section III(A) Monthly ATP Fees and NYSE Arca Options Fees and Charges, OTP Trading Participant Rights, which assesses a monthly permit (“ATP”) fee of \$1,000 for Clearing Members and Order Floor Providers, and a monthly ATP fees up to \$8,000 for Market-Makers; and MIAX Options Fee Schedule, Section 3, Membership Fees, which assesses an Electronic Exchange Members Trading Permit fee of \$1,500 per month and a Market Maker Trading Permit Fee between \$7,000 and \$22,000 per month.

¹⁰ See Cboe BZX Options Fee Schedule, Membership Fees, which assesses BZX Options Members a monthly fee between \$500 and \$1,000.

¹¹ See e.g., Securities Exchange Act Release No. 93927 (January 7, 2022), 87 FR 2191 (January 13, 2022) (SR-MEMX-2021-19) (introduction of membership fees by MEMX). See also Securities Exchange Act Release No. 94894 (May 11, 2022), 87 FR 29987 (May 17, 2022) (SR-BOX-2022-17).

¹² See, e.g., “NASDAQ Membership Fees,” (\$55 for each Form U-4 filed for the registration of a Representative or Principal, and \$55 for each Form U-4 filed for the transfer or re-licensing of a Representative or Principal).

ago—based on the Exchange's ability to deliver value to its customers through technology, liquidity, and functionality. Newly-opened exchanges often charge no fees for certain services such as membership, in order to attract order flow to an exchange, and later amend their fees to reflect the true value of those services.¹³ Allowing newly-opened exchanges time to build and sustain market share before charging non-transactional fees encourages market entry and promotes competition.

The Exchange believes that the proposed Participant Fees are not unfairly discriminatory because it would be assessed uniformly across all Members or firms that seek to become Members. Additionally, the Exchange believes that the proposed fees are not unfairly discriminatory because no broker-dealer is required to become a Member of the Exchange. There is also no regulatory requirement that Market Makers connect and access any one options exchange or that any market participant connect to any one particular options exchange. Moreover, a Market Maker membership is not a requirement to participate on the Exchange and participation on an exchange in any capacity is completely voluntary. Indeed, while the Exchange currently has 51 members that trade options, Cboe BZX has 63 members that trade options, Cboe Options has 98 Trading Permit Holders ("TPHs") (*i.e.*, members) and Cboe C2 has 52 TPHs. There is also no firm that is a Member of EDGX Options only. Further, based on publicly available information regarding a sample of the Exchange's competitors, NYSE American Options has 73 members,¹⁴ and NYSE Arca Options has 67 members,¹⁵ MIAX Options has 44 members¹⁶ and MIAX Pearl Options has 41 members.¹⁷ BOX Exchange, Inc. ("BOX") noted in a recent rule change to adopt Electronic Market Maker Trading Permit Fees that it reviewed membership details at three options exchanges and found that there are 62 market making firms across those

three exchanges.¹⁸ Particularly, BOX found that 42 of the 62 market making firms access only one of the three exchanges. BOX additionally identified numerous market makers that are members of other options exchanges, but not BOX.

Accordingly, the vigorous competition among national securities exchanges provides many alternatives for firms to voluntarily decide whether membership to the Exchange is appropriate and worthwhile, and as noted above, no broker-dealer is required to become a Member of the Exchange. Indeed, there are currently 15 other registered options exchanges that trade options and one additional options exchange expected to launch in 2023. Further, low barriers to entry mean that new exchanges may rapidly and inexpensively enter the market and offer additional substitute platforms to further compete with the Exchange and the products it offers. For example, there are 3 exchanges that have been added in the U.S. options markets in the last 5 years (*i.e.*, Nasdaq MRX, LLC, MIAX Pearl, LLC, and MIAX Emerald LLC) and one additional options exchange that is expected to launch in 2023 (*i.e.*, MEMX LLC). Notwithstanding the foregoing, the Exchange still believes that the proposed fee of \$500 as a monthly Participant Fee, and additional fee of \$750 for Market Makers is reasonable, equitably allocated and not unfairly discriminatory, even for a broker-dealer that determines it should join the Exchange for business purposes, as those business reasons should presumably result in revenue capable of covering the proposed fee.

The Exchange believes its proposed Market Maker Appointments Sliding Scale fees are also reasonable as its affiliated exchange, Cboe Exchange, Inc. ("Cboe Options"), offers the same structure with respect to fees for appointment classes and as the proposed fees are significantly lower than the Cboe Options fees that were adopted recently in 2020.¹⁹ The Exchange believes the proposed tier compositions, corresponding appointment weights and rebalance process are also reasonable as they are

the same as they are for Cboe Options. In addition, other exchanges offer a similar structure with respect to assessing Market-Maker fees based on appointment classes and the proposed fees are again significantly lower than such fees, including the fees just recently adopted by BOX.²⁰

Moreover, as discussed above, there is no regulatory requirement that any market participant, including Market Makers, connect to any one particular options exchange. This is evidenced by the fact that no firm is an EDGX Options only member and further illustrated by the analysis described above by BOX in which it found 42 of 62 market making firms across three exchanges access only one of those three exchanges. Also as noted, a Market Maker membership is not a requirement to participate on the Exchange and participation on an exchange in any capacity is completely voluntary. Accordingly, Market Makers choose if and how to access a particular exchange and because it is a choice; if a Market Maker deems a particular exchange as charging excessive fees to participate, such Market Maker may not connect, and existing Market Makers would disconnect from the Exchange.

The Exchange believes the proposed Market Maker Appointments Sliding Scale fees are equitable and not unfairly discriminatory because they will apply uniformly to all Market Makers, and all similarly situated Market Makers (*i.e.*, those with same number of Appointment Units), will be subject to the same fee. The Exchange also believes that assessing Market Makers that quote in fewer classes lower total fees is reasonable and appropriate as it will allow the Exchange to retain and attract smaller-scale Market Makers, which are an integral component of the options industry marketplace. The Exchange believes it's equitable and not

¹³ See *e.g.*, Securities Exchange Act Release No. 93927 (January 7, 2022), 87 FR 2191 (January 13, 2022) (SR-MEMX-2021-19) (introduction of membership fees by MEMX).

¹⁴ See <https://www.nyse.com/markets/american-options/membership#directory>.

¹⁵ See <https://www.nyse.com/markets/arca-options/membership#directory>.

¹⁶ See https://www.miaxoptions.com/sites/default/files/page-files/MIAX_Options_Exchange_Members_12222021.pdf.

¹⁷ See https://www.miaxoptions.com/sites/default/files/page-files/MIAX_Pearl_Options_Exchange_Members_12012021.pdf.

¹⁸ See Securities and Exchange Release No. 94894 (May 11, 2022), 87 FR 29987 (May 17, 2022) (SR-BOX-2022-17).

¹⁹ See Securities Exchange Act Release No. 90333 (November 4, 2020), 85 FR 71666 (November 10, 2020) (SR-CBOE-2020-105). See also Cboe Options Fees Schedule, Market-Maker EAP Appointments Sliding Scale, which assesses fees between \$3,100 to \$6,000 per appointment unit versus the proposed Market Maker Appointments Sliding Scale which assesses significantly lower rates between \$100 to \$500 per appointment unit.

²⁰ See *e.g.*, NYSE Arca, Inc. ("NYSEArca") Fee Schedule, which assesses Market Makers \$6,000 for up to 175 option issues, an additional \$5,000 for up to 350 option issues, an additional \$4,000 for up to 1,000 option issues, and an additional \$3,000 for all option issues traded on the Exchange. See also Miami International Securities Exchange, LLC ("MIAX") Fee Schedule Fee, which assesses Market Makers \$7,000 for up to 10 classes or up to 20% of classes by volume, \$12,000 for up to 40 classes or up to 35% of classes by volume, \$17,000 for up to 100 classes or up to 50% or classes by volume, and \$22,000 for over 100 classes or over 50% of classes by volume up to all classes listed on MIAX. See Securities and Exchange Release No. 94894 (May 11, 2022), 87 FR 29987 (May 17, 2022) (SR-BOX-2022-17) and BOX Exchange Fees Schedule, Section 1. Participant Fees, which assesses Market Makers \$4,000 for up to 10 option classes, \$6,000 for up to 40 classes, \$8,000 for up to 100 classes and \$10,000 for over 100 classes. By comparison, the Exchange anticipates that EDGX Options Market Makers on average would need approximately 9.5 Appointment Units, costing \$2,050 per month for appointment fees.

unfairly discriminatory to assess higher fees for Market Makers that have a higher number of class appointments since they are likely to utilize more bandwidth and capacity on the Exchange's network. The Exchange also notes that other options exchanges assess fees at different rates based upon a member's participation on that exchange, and, as such, this concept is not new or novel.²¹ The Exchange lastly believes that the proposed Market Maker Participant and Market Maker Appointments Sliding Scale fees are equitable and not unfairly discriminatory because Market Makers generally consume the most bandwidth and resources of the Exchange's network. As such, the Exchange believes it's equitable and not unfairly discriminatory to assess Market Makers an additional Participant Fee and Market Maker Appointments Sliding Scale fees.

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 fee change will not impact intramarket competition because it will apply to all similarly situated Members equally. The Exchange also believes that the proposed Market Maker Participant and Market Maker Appointments Sliding Scale fees do not place certain market participants at a relative disadvantage to other market participants because the proposed fees do not favor certain categories of market participants in a manner that would impose a burden on competition; rather, the fee rates are designed in order to provide objective criteria for Market Makers of different sizes and business models that best matches their quoting activity on the Exchange. Further, as noted above, Market Makers generally consume the most bandwidth and resources of the network.

The Exchange's proposed Participant Fees, including the Market Maker Participant Fee, will be lower than the cost of membership on other exchanges as described in detail above and therefore, may stimulate intermarket competition by attracting additional firms to become Members on the Exchange or at least should not deter interested participants from joining the Exchange. In addition, as discussed in

the statutory basis section above, participant fees are subject to competition from other exchanges. Accordingly, if the changes proposed herein are unattractive to market participants, the Exchange can, and likely will, see a decline in membership as a result. The Exchange operates in a highly competitive market in which market participants can determine whether or not to join the Exchange based on the value received compared to the cost of joining and maintaining membership on the Exchange.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to section 19(b)(3)(A)²² of the Act and subparagraph (f)(2) of Rule 19b-4²³ thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such 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)²⁴ of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or

²² 15 U.S.C. 78s(b)(3)(A).

²³ 17 CFR 240.19b-4(f)(2).

²⁴ 15 U.S.C. 78s(b)(2)(B).

- Send an email to rule-comments@sec.gov. Please include File Number SR-CboeEDGX-2023-003 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-CboeEDGX-2023-003. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-CboeEDGX-2023-003, and should be submitted on or before February 13, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁵

Sherry R. Haywood,

Assistant Secretary.

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²⁵ 17 CFR 200.30-3(a)(12).

²¹ *Id.*

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-96677; File No. SR-CboeEDGX-2023-001]

Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fee Schedule

January 17, 2023.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on January 3, 2023, Cboe EDGX Exchange, Inc. (the “Exchange” or “EDGX”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

Cboe EDGX Exchange, Inc. (the “Exchange” or “EDGX Options”) proposes to amend its Fee Schedule. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange’s website (http://markets.cboe.com/us/options/regulation/rule_filings/edgx/), at the Exchange’s Office of the Secretary, and at the Commission’s Public Reference Room.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Fee Schedule, effective January 3, 2023. The Exchange proposes to modify its market data fees for EDGX Options Top.³ Particularly, the Exchange proposes to modify the Professional and Non-Professional User Fees and adopt a new Enterprise Fee for EDGX Options Top.

The Exchange first proposes to reduce the Professional and Non-Professional User fees for EDGX Options Top. The Exchange currently charges Internal Distributors and External Distributors that redistribute any of the EDGX Options Data Feeds different fees for their Professional Users⁴ and Non-Professional Users.⁵ The Exchange currently assesses a monthly fee for Professional Users of \$10.00 per User and a monthly fee of \$1.00 per Non-Professional User.⁶ Further, the Fee Schedule provides that Users of any one of EDGX Options market data products (*i.e.*, EDGX Options Top, EDGX Options Depth, EDGX Options Auction Feed, EDGX Options Complex Depth, EDGX Options Complex Top, and EDGX Options Complex Auction Fees) may receive, at no additional charge, access to any or all of the other market data products listed. The Exchange proposes to reduce the User fees for EDGX

Options Top. Particularly, the Exchange proposes to reduce the monthly (i) Professional User fee from \$10 per user to \$5 per user and (ii) Non-Professional User fee from \$1.00 per user to \$0.10 per user. The Exchange also proposes to start charging separate User fees for EDGX Options Top. User Fees for the Exchange’s remaining market data products will continue to receive, at no additional charge, access to any or all of the other market data products lists (with the exception of EDGX Options Top). The Exchange has reformatted the Market Data Fees table to make this clear.⁷

The Exchange lastly proposes to establish a \$20,000 per month Enterprise Fee that will permit a recipient firm who receives EDGX Options Top Data from a Distributor to receive the data for an unlimited number of Professional and Non-Professional Users. The Enterprise Fee is an alternative to User fees and will permit a recipient firm who receives EDGX Options Top Data from a Distributor to pay a flat fee to receive the data for an unlimited number of Professional and Non-Professional Users, which the Exchange proposes to make clear in the Fee Schedule. The Enterprise Fee may provide a recipient an opportunity to reduce its fees. For example, if a recipient firm has 15,000 Professional Users who each receive EDGX Options Top at \$5.00 per month (as proposed), then that recipient firm will pay \$75,000 per month in Professional Users fees. If the recipient firm instead were to purchase the proposed Enterprise license, the recipient firm would alternatively pay a flat fee of \$20,000 for an unlimited number of Professional and Non-Professional Users. A recipient firm must pay a separate Enterprise Fee for each Distributor that controls the display of EDGX Options Top if it wishes such User to be covered by an Enterprise Fee rather than by per User fees. A recipient firm that pays the Enterprise Fee will not have to report its number of such Users on a monthly basis. Rather, every six months, the recipient firm must provide the Exchange with a count of the total number of authorized person users of each product, including both Professional and Non-Professional Users. The Exchange notes that the purchase of an Enterprise license is

³ EDGX Options Top is an uncompressed data feed that offers top of book quotations and execution information based on options orders entered into the System.

⁴ A Professional User of an Exchange Market Data product is any User other than a Non-Professional User.

⁵ A “Non-Professional User” of an Exchange Market Data product is a natural person or qualifying trust that uses Data only for personal purposes and not for any commercial purpose and, for a natural person who works in the United States, is not: (i) registered or qualified in any capacity with the Securities and Exchange Commission, the Commodities Futures Trading Commission, any state securities agency, any securities exchange or association, or any commodities or futures contract market or association; (ii) engaged as an “investment adviser” as that term is defined in Section 202(a)(11) of the Investment Advisors Act of 1940 (whether or not registered or qualified under that Act); or (iii) employed by a bank or other organization exempt from registration under federal or state securities laws to perform functions that would require registration or qualification if such functions were performed for an organization not so exempt; or, for a natural person who works outside of the United States, does not perform the same functions as would disqualify such person as a Non-Professional User if he or she worked in the United States.

⁶ Distributors that receive EDGX Options Data Feeds are required to count every Professional User and Non-Professional User to which they provide the market data product(s).

⁷ The Exchange is not proposing any changes to the current User Fee rates for its other market data products at this time and Users of any one of the remaining market data products may continue to receive, at no additional charge, access to any or all of the other market data products listed (*i.e.*, except for EDGX Options Top).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

voluntary, and a firm may elect to instead use the per User structure and benefit from the proposed per User Fees described above. For example, a firm that does not have a sufficient number of subscribers to benefit from purchase of the license need not do so.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the “Act”) and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of section 6(b) of the Act.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 system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with section 6(b)(4) of the Act,¹⁰ which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its Members and other persons using its facilities.

The Exchange first notes that it operates in a highly competitive environment. Indeed, there are currently 16 registered options exchanges that trade options. Based on publicly available information, no single options exchange has more than 18% of the market share.¹¹ The Exchange believes top-of-book quotation and transaction data is highly competitive as national securities exchanges compete vigorously with each other to provide efficient, reliable, and low-cost data to a wide range of investors and market participants. Indeed, there are several competing products offered by other national securities exchanges today, not counting products offered by the Exchange’s affiliates, and each of the Exchange’s affiliated U.S. options exchanges also offers similar top-of-

book data.¹² Each of those exchanges offer top-of-book quotation and last sale information based on their own quotation and trading activity that is substantially similar to the information provided by the Exchange through the EDGX Options Top Feed. Further, the quote and last sale data contained in the EDGX Options Top Feed is identical to the data sent to OPRA for redistribution to the public.¹³ Accordingly, market participants can substitute EDGX Options Top with feeds from other exchanges and/or through OPRA. Exchange top-of-book data is therefore widely available today from a number of different sources.

Moreover, the EDGX Options Top is distributed and purchased on a voluntary basis, in that neither the Exchange nor market data distributors are required by any rule or regulation to make this data available. Accordingly, Distributors and Users can discontinue use at any time and for any reason, including due to an assessment of the reasonableness of fees charged. As described above, market participants have a wide variety of alternative market data products from which to choose, such as similar proprietary data products offered by other exchanges and consolidated data. Further, the Exchange is not required to make any proprietary data products available or to offer any specific pricing alternatives to any customers. Moreover, all broker-dealers involved in order routing must take consolidated data from OPRA, and proprietary data feeds cannot be used to meet that particular requirement. As such, all proprietary data feeds are optional.

The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Particularly, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system “has been remarkably successful in promoting market competition in its broader forms that are most important to

investors and listed companies.”¹⁴ Making similar data products available to market participants fosters competition in the marketplace, and constrains the ability of exchanges to charge supracompetitive fees. In the event that a market participant views one exchange’s data product as more or less attractive than the competition they can and do switch between similar products. The proposed fees are a result of the competitive environment, as the Exchange seeks to adopt fees to attract purchasers of EDGX Options Top Data.

The Exchange believes the proposed changes to reduce the current Professional and Non-Professional User fees are reasonable as recipient firms will be subject to lower User fees. Additionally, the User fees continue to be lower than User fees assessed by other exchanges for similar data.¹⁵ The Exchange believes that the proposed fees are equitable and not unfairly discriminatory because they will be charged uniformly to recipient firms and Users. The Exchange also believes continuing to offer EDGX Options Top Data to Non-Professional Users at a lower cost than Professional Users results in greater equity among data recipients, as Professional Users are categorized as such based on their employment and participation in financial markets, and thus, are compensated to participate in the markets. Although Non-Professional Users too can receive significant financial benefits through their participation in the markets, the Exchange believes it is reasonable to charge more to those Users who are more directly engaged in the markets.

The Exchange believes the proposed change to start charging separate User fees for EDGX Options Top is equitable and reasonable because the Exchange has not charged for separate User Fees for both feeds since EDGX Options Top was adopted in January 2018 and the Exchange now wishes to have separate User fees for EDGX Options Top.¹⁶ Moreover, the remaining EDGX Options data products are purely optional. Only those Customers that deem the products

¹⁴ See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (“Regulation NMS Adopting Release”).

¹⁵ See e.g., Nasdaq PHLX Options 7 Pricing Schedule, Section 10 (Proprietary Data Feed Fees), which provides for a fee of \$40 per month to professional users and \$1.00 per month to non-professional users of Top of PHLX Options (TOPO) Data. See also NYSE American Options Proprietary Market Data Fees schedule, which provides for a fee of \$50 per month to professional users and \$1.00 per month to non-professional users of American Options Top Data.

¹⁶ See Securities Exchange Act Release No. 82462 (January 12, 2018), 83 FR 1647 (January 8, 2018) (SR-ChoeEDGX-2017-010).

⁸ 15 U.S.C. 78f(b).

⁹ 15 U.S.C. 78f(b)(5).

¹⁰ 15 U.S.C. 78f(b)(4).

¹¹ See Choe Global Markets U.S. Options Market Month-to-Date Volume Summary (December 27, 2022), available at https://markets.choe.com/us/options/market_statistics/.

¹² See e.g., NYSE Arca Options Proprietary Market Data Fees Schedule, MIAX Options Exchange, Fee Schedule, Section 6 (Market Data Fees), Nasdaq PHLX Options 7 Pricing Schedule, Section 10 (Proprietary Data Feed Fees) and Cboe Data Services, LLC Fees Schedule.

¹³ The Exchange notes that it makes available to “Customers” the BBO data and last sale data that is included in the EDGX Options Top Data Feed no earlier than the time at which the Exchange sends that data to OPRA.

to be of sufficient overall value and usefulness would purchase them. Additionally, the Exchange is not required to provide any User fee waiver to any Distributors of EDGX Options Top. The Exchange believes the proposed change is equitable and not unfairly discriminatory as it will apply uniformly to recipient firms.

The proposed Enterprise Fee for EDGX Options Top Feed is equitable and reasonable as the proposed fee could result in a fee reduction for recipient firms with a large number of Professional and Non-Professional Users. If a recipient firm has a smaller number of Professional Users of EDGX Options Top Data, then it may continue using the per User structure and benefit from the proposed per User Fee reductions. By reducing prices for recipient firms with a large number of Professional and Non-Professional Users, the Exchange believes that more firms may choose to receive and to distribute EDGX Options Top Data, thereby expanding the distribution of this market data for the benefit of investors.

The Exchange further believes that the proposed Enterprise Fee is reasonable because it will simplify reporting for certain recipients that have large numbers of Professional and Non-Professional Users. Firms that pay the proposed Enterprise Fee will not have to report the number of Users on a monthly basis as they currently do, but rather will only have to count authorized users every six months, which is a significant reduction in administrative burden. Finally, as described above the Enterprise Fee is entirely optional. A firm that does not have a sufficient number of subscribers to benefit from purchase of the license need not do so.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change would result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange operates in a highly competitive environment, and its ability to price top-of-book data is constrained by competition among exchanges that offer similar data products to their customers. Top-of-book data is broadly disseminated by competing U.S. options exchanges and through OPRA. There are therefore a number of alternative products available to market participants and investors, including products offered by certain competing exchanges. In this competitive environment potential subscribers are

free to choose which competing product to purchase to satisfy their need for market information. Often, the choice comes down to price, as market data customers look to purchase cheaper data products, and quality, as market participants seek to purchase data that represents significant market liquidity.

The Exchange believes that the proposed fees do not put any market participants at a relative disadvantage compared to other market participants. As discussed, the proposed fees would apply to all similarly situated recipient firms of EDGX Options Top on an equal and non-discriminatory basis. The Exchange believes the differentiated fees for Professional and Non-Professional Users of EDGX Options Top is appropriate given Professional Users are categorized as such based on their employment and participation in financial markets, and thus, are compensated to participate in the markets. Non-Professional Users too can receive significant financial benefits through their participation in the markets, however the Exchange believes it is reasonable to charge more to those Users who are more directly engaged in the markets. The Exchange therefore believes that the proposed fee neither favors nor penalizes one or more categories of market participants in a manner that would impose an undue burden on competition.

The Exchange believes that the proposed fees do not impose a burden on competition or on other SROs that is not necessary or appropriate in furtherance of the purposes of the Act. In particular, market participants are not forced to subscribe to EDGX Options Top, or any of the Exchange's data feeds, as described above. Also as described above, there are numerous substitute products offered by other national securities exchanges, as well as OPRA. Because market data customers can find suitable substitute feeds, an exchange that overprices its market data products stands a high risk that users may substitute another product. These competitive pressures ensure that no one exchange's market data fees can impose an undue burden on competition, and the Exchange's proposed fees do not do so here.

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 Act¹⁷ and paragraph (f) of Rule 19b-4¹⁸ 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 (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-CboeEDGX-2023-001 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.
- All submissions should refer to File Number SR-CboeEDGX-2023-001. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and

¹⁷ 15 U.S.C. 78s(b)(3)(A).

¹⁸ 17 CFR 240.19b-4(f).

printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-CboeEDGX-2023-001 and should be submitted on or before February 13, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁹

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2023-01117 Filed 1-20-23; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-96672; File No. SR-CBOE-2023-001]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Update the Cboe Data Services, LLC Fee Schedule

January 17, 2023.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on January 3, 2023, Cboe Exchange, Inc. (the "Exchange" or "Cboe Options") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe Exchange, Inc. (the "Exchange" or "Cboe Options") proposes to update the Cboe Data Services, LLC 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://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx>), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Cboe Data Services, LLC ("CDS") Fee Schedule, effective January 3, 2023. The Exchange proposes to modify its fees relating to the distribution of the BBO data feed.³ Particularly, the Exchange proposes to modify the BBO Data Fee and Display Only User Fee, eliminate a fee waiver for takers of BBO Data, and adopt a BBO Enterprise Fee. The Exchange also proposes to rename the "BBO data feed" to "Cboe Options Top Data Feed" (or "Cboe Options Top Data"), and use the proposed name herein, in order to align with the naming convention used by the Exchange's affiliated options exchanges for similar data products.⁴

The Exchange first proposes to modify the current monthly Data Fee for Cboe

Options Top Data. Currently, the Exchange assesses a "Data Fee", payable by a Customer, of \$9,000 per month for internal use and external redistribution of the Cboe Options Top Data Feed.⁵ The Data Fee entitles a Customer to provide the Cboe Options Top Data to an unlimited number of internal users and Devices⁶ within the Customer. A Customer receiving the Cboe Options Top Data Feed from another Customer or directly from the Exchange is assessed the Data Fee by the Exchange pursuant to its own market data agreement with CDS and is entitled to use the Data internally and/or distribute it externally. All Customers have the same rights to utilize the data internally and/or distribute it externally as long as the Customer has entered into a written agreement with CDS for the data and pays the Data Fee. The Exchange now proposes to adopt separate fees for internal and external distribution (and codify the definitions of Internal and External Distributors in the CDS Fee Schedule).⁷ Specifically, the Exchange proposes to maintain the current monthly fee of \$9,000 for internal distribution but adopt a reduced fee of \$5,000 per month for external distribution.

The Exchange next proposes to modify its current User Fees. The Exchange currently charges a "User Fee", payable by a Customer, of \$50 per month per Device or user ID for use of the data in the Cboe Options Top Data Feed by "Display Only Service"⁸ users. The current User fee is payable only for "external" Display Only Service users

⁵ A "Customer" is any person, company or other entity that, pursuant to a market data agreement with CDS, is entitled to receive data, either directly from CDS or through an authorized redistributor (*i.e.*, a Customer or an extranet service provider), whether that data is distributed externally or used internally. A third-party vendor of an Approved Third-Party Device, as defined in the CDS Fee Schedule, is not a Customer unless it has a market data agreement in place with CDS. A Floor Broker User, as defined in the CDS Fee Schedule, is not a Customer unless it has a market data agreement in place with CDS.

⁶ A "Device" means any computer, workstation or other item of equipment, fixed or portable, that receives, accesses and/or displays data in visual, audible or other form.

⁷ An Internal Distributor of an Exchange market data product is a Distributor that receives the Exchange market data product and then distributes that data to one or more Users within the Distributor's own entity. An External Distributor of an Exchange market data product is a Distributor that receives the Exchange Market Data product and then distributes that data to a third party or one or more Users outside the Distributor's own entity.

⁸ Display Only Service allows a natural person end-user to view and manipulate data using the Customer's computerized service, but not to save, copy, export or transfer the data or any results of the manipulation to any other computer hardware, software or media, except for printing it to paper or other non-magnetic media.

¹⁹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ The BBO Data Feed is a real-time data feed that includes the following information: (i) outstanding quotes and standing orders at the best available price level on each side of the market; (ii) executed trades time, size, and price; (iii) totals of customer versus non-customer contracts at the best bid and offer ("BBO"); (iv) all-or-none contingency orders priced better than or equal to the BBO; (v) expected opening price and expected opening size; (vi) end-of-day summaries by product, including open, high, low, and closing price during the trading session; (vii) recap messages any time there is a change in the open, high, low or last sale price of a listed option; (viii) COB information; and (ix) product IDs and codes for all listed options contracts. The quote and last sale data contained in the BBO data feed is identical to the data sent to the Options Price Reporting Authority ("OPRA") for redistribution to the public. This data feed is made available by the Exchange's affiliate CDS.

⁴ See Cboe BZX Options Fee Schedule and Cboe EDGX Options Fee Schedule.

(Devices or user IDs of Display Only Service users who are not employees or natural person independent contractors of the Customer, the Customer's affiliates, or an authorized service facilitator).⁹ The Exchange proposes to eliminate the current User fee (and corresponding description (other than the definition of "Device") in the Fee Schedule) and in its place adopt Professional and Non-Professional User fees for Cboe Options Top Data. Particularly, the Exchange proposes to charge Internal Distributors and External Distributors that redistribute Cboe Options Top Data different fees for their Professional Users¹⁰ and Non-Professional Users¹¹ (and codify the definitions in the CDS Fee Schedule). The Exchange proposes to assess a monthly fee for Professional Users of \$15.50 per User and a monthly fee of \$0.30 per Non-Professional User.¹² The Exchange also proposes to clarify in the CDS Fee Schedule that User fees for Professional Users are payable for both "internal" Professional Users (Devices or user IDs of employees of a Customer) and "external" Professional Users (Devices or user IDs of Professional Users who receive the Data from a Customer and are not employed by the Customer), as well as make clear that Non-Professional Users must be external since a person who uses the Data for a

commercial purpose cannot be a Non-Professional User.

Next, the Exchange proposes to eliminate a fee waiver for Customers of Cboe Options Top Data. In particular, the CDS Fee Schedule currently provides that the monthly data fee of \$9,000 per month for the Book Depth Data Feed¹³ is waived for Cboe Options Top Data Customers. The Exchange proposes to eliminate the fee waiver for Book Depth Data for External Distributors of Cboe Options Top (*i.e.*, the monthly \$9,000 data fee for Book Depth Data will only continue to be waived for Internal Distributors of Cboe Options Top Data).

The Exchange lastly proposes to establish a \$300,000 per month Enterprise Fee that will permit a recipient firm who receives Cboe Options Top Data from a Distributor to receive the data for an unlimited number of Professional and Non-Professional Users. The Enterprise Fee is an alternative to User fees and will permit a recipient firm who receives Cboe Options Top Data from a Distributor to pay a flat fee to receive the data for an unlimited number of Professional and Non-Professional Users, which the Exchange proposes to make clear in the CDS Fee Schedule. The Enterprise Fee may provide a recipient an opportunity to reduce their fees. For example, if a recipient firm has 20,000 Professional Users who each receive EDGX Options Top at \$15.50 per month (as proposed), then that recipient firm will pay \$310,000 per month in Professional Users fees. If the recipient firm instead were to purchase the proposed Enterprise license, the recipient firm would alternatively pay a flat fee of \$300,000 for an unlimited number of Professional and Non-Professional Users. A recipient firm must pay a separate Enterprise Fee for each Distributor that controls the display of Cboe Options Top if it wishes such User to be covered by an Enterprise Fee rather than by per User fees. A recipient firm that pays the Enterprise Fee will not have to report its number of such Users on a monthly basis. Rather, every six months, the recipient firm must provide the Exchange with a count of the total number of authorized users (both Professional and Non-Professional Users) of Cboe Options Top Data. The

Exchange notes that the purchase of an Enterprise license is voluntary, and a firm may elect to instead use the per User structure and benefit from the proposed per User Fees described above. For example, a firm that does not have a sufficient number of subscribers to benefit from purchase of the license need not do so.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the "Act") and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.¹⁴ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹⁵ 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 section 6(b)(4) of the Act,¹⁶ which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its Trading Permit Holders and other persons using its facilities.

The Exchange first notes that it operates in a highly competitive environment. Indeed, there are currently 16 registered options exchanges that trade options. Based on publicly available information, no single options exchange has more than 18% of the market share.¹⁷ The Exchange believes top-of-book quotation and transaction data is highly competitive as national securities exchanges compete vigorously with each other to provide efficient, reliable, and low-cost data to a wide range of investors and market participants. Indeed, there are several competing products offered by other national securities exchanges today, not counting products offered by the Exchange's affiliates, and each of the Exchange's affiliated U.S. options

⁹ Customers who distribute Cboe Options Top Data to external users via a Display Only service must report to CDS the number of authorized external devices that receive Cboe Options Top data from the Customer during a calendar month within 15 days after such month in the manner and format specified by CDS from time to time to determine applicable fees.

¹⁰ A "Professional User" is any natural person recipient of Data who is not a Non-Professional User.

¹¹ A "Non-Professional User" is a natural person or qualifying trust that uses Data only for personal purposes and not for any commercial purpose and, for a natural person who works in the United States, is not: (i) registered or qualified in any capacity with the Securities and Exchange Commission, the Commodities Futures Trading Commission, any state securities agency, any securities exchange or association, or any commodities or futures contract market or association; (ii) engaged as an "investment adviser" as that term is defined in Section 201(11) of the Investment Advisors Act of 1940 (whether or not registered or qualified under that Act); or (iii) employed by a bank or other organization exempt from registration under federal or state securities laws to perform functions that would require registration or qualification if such functions were performed for an organization not so exempt; or, for a natural person who works outside of the United States, does not perform the same functions as would disqualify such person as a Non-Professional User if he or she worked in the United States. Professional User.

¹² Distributors that receive Cboe Options Top Data will be required to count every Professional User and Non-Professional User to which they provide the data feed.

¹³ The Book Depth Data Feed is a real-time, low latency data feed that includes all data contained in the Cboe Options Top Data Feed (as described above) plus outstanding quotes and standing orders for an additional four price levels on each side of the market, with aggregate size ("Book Depth"). The data in the Book Depth Data Feed is refreshed periodically during the trading session.

¹⁴ 15 U.S.C. 78f(b).

¹⁵ 15 U.S.C. 78f(b)(5).

¹⁶ 15 U.S.C. 78f(b)(4).

¹⁷ See Cboe Global Markets U.S. Options Market Month-to-Date Volume Summary (December 27, 2022), available at https://markets.cboe.com/us/options/market_statistics/.

exchanges also offers similar top-of-book data.¹⁸ Each of those exchanges offer top-of-book quotation and last sale information based on their own quotation and trading activity that is substantially similar to the information provided by the Exchange through the Cboe Options Top Feed. Further, the quote and last sale data contained in the Cboe Options Data Feed is identical to the data sent to OPRA for redistribution to the public, including data relating to the Exchange's proprietary and exclusively listed products.¹⁹ Accordingly, market participants can substitute Cboe Options Top Data with feeds from other exchanges and/or through OPRA. Exchange top-of-book data is therefore widely available today from a number of different sources.

Moreover, the Cboe Options Top Data Feed is distributed and purchased on a voluntary basis, in that neither the Exchange nor market data distributors are required by any rule or regulation to make this data available. Accordingly, Distributors and Users can discontinue use at any time and for any reason, including due to an assessment of the reasonableness of fees charged. As described above, market participants have a wide variety of alternative market data products from which to choose, such as similar proprietary data products offered by other exchanges and consolidated data. Further, the Exchange is not required to make any proprietary data products available or to offer any specific pricing alternatives to any customers. Moreover, all broker-dealers involved in order routing must take consolidated data from OPRA, and proprietary data feeds cannot be used to meet that particular requirement. As such, all proprietary data feeds are optional.

The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Particularly, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system "has been remarkably successful in promoting market competition in its

broader forms that are most important to investors and listed companies."²⁰ Making similar data products available to market participants fosters competition in the marketplace, and constrains the ability of exchanges to charge supracompetitive fees. In the event that a market participant views one exchange's data product as more or less attractive than the competition they can and do switch between similar products. The proposed fees are a result of the competitive environment, as the Exchange seeks to adopt fees to attract purchasers of Cboe Options Top Data.

The Exchange believes the proposed External Distribution fee is reasonable as it would represent a decreased fee for External Distributors for top-of-book data that has proven valuable for investors. By providing lower cost access to U.S. options market data, Cboe Options Top benefits a wide range of investors that participate in the national market system and makes it more broadly available. The Exchange believes the proposed fees for external distribution of Cboe Options Top will also continue to be allocated fairly and equitably among subscribers, and are not unfairly discriminatory, as the proposed fees will apply equally to all data recipients that choose to subscribe to Cboe Options Top and distribute that data to external subscribers. As proposed, all External Distributors of Cboe Options Top will be subject to the same external distribution fee, regardless of the type of business that they operate, or the use they plan to make of the data feed. Thus, all External Distributors would have access to Cboe Options Top on the same equitable and non-discriminatory terms.

The Exchange believes that it is also fair and equitable, and not unfairly discriminatory to charge different fees for internal and external distribution of the Cboe Options Top. Although the proposed distribution fee charged to External Distributors will be lower than the existing distribution fee charged to Internal Distributors, External Distributors are subject to Non-Professional user fees to which Internal Distributors are not subject, in addition to Professional User fees (or alternatively the proposed Enterprise Fee). Furthermore, the proposal is designed to incentivize External Distributors to subscribe to Cboe Options Top Data.

The Exchange believes the proposed changes to adopt new Professional and Non-Professional User fees are

reasonable as the User fees continue to be lower than User fees assessed by other exchanges for similar data.²¹ Moreover, External Distributors will now be subject to lower fees as the Exchange proposes to significantly reduce the monthly User fees from \$50 per External User to \$15.50 per Professional User or \$0.30 per Non-Professional User. The Exchange believes that the proposed fees are equitable and not unfairly discriminatory because they will be charged uniformly to recipient firms and Users. The fee structure of differentiated Professional and Non-Professional fees that are paid by both Internal and External Distributors has long been used by other exchanges, including the Exchange, for their proprietary data products, and by the OPRA plan in order to reduce the price of data to retail investors and make it more broadly available.²² The Exchange also believes offering Cboe Options Top Data to Non-Professional Users at a lower cost than Professional Users results in greater equity among data recipients, as Professional Users are categorized as such based on their employment and participation in financial markets, and thus, are compensated to participate in the markets. Although Non-Professional Users too can receive significant financial benefits through their participation in the markets, the Exchange believes it is reasonable to charge more to those Users who are more directly engaged in the markets.

The Exchange also believes eliminating the fee waiver of the data fee for Book Depth Data Feed for External Distributors of Cboe Options Top is equitable and reasonable because it has been available, without change, since adopted in January 1, 2015 and the Exchange no longer feels it necessary to incentivize further

¹⁸ See e.g., NYSE Arca Options Proprietary Market Data Fees Schedule, MIA Options Exchange, Fee Schedule, Section 6 (Market Data Fees), Nasdaq PHLX Options 7 Pricing Schedule, Section 10 (Proprietary Data Feed Fees) and C2 Options Exchange Fees Schedule, Cboe Data Services, LLC Fees.

¹⁹ The Exchange notes that CDS makes available to "Customers" the BBO data and last sale data that is included in the Cboe Options Top Data Feed no earlier than the time at which the Exchange sends that data to OPRA.

²⁰ See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) ("Regulation NMS Adopting Release").

²¹ See e.g., Nasdaq PHLX Options 7 Pricing Schedule, Section 10 (Proprietary Data Feed Fees), which provides for a fee of \$40 per month to professional users and \$1.00 per month to non-professional users of Top of PHLX Options (TOPO) Data. See also NYSE American Options Proprietary Market Data Fees schedule, which provides for a fee of \$50 per month to professional users and \$1.00 per month to non-professional users of American Options Top Data.

²² See, e.g., Securities Exchange Act Release No. 59544 (March 9, 2009), 74 FR 11162 (March 16, 2009) (SR-NYSE-2008-131) (establishing the \$15 Non-Professional User Fee (Per User) for NYSE OpenBook); See, e.g., Securities Exchange Act Release No. 67589 (August 2, 2012), 77 FR 47459 (August 8, 2012) (revising OPRA's definition of the term "Nonprofessional"); and See Securities Exchange Act Release No. 70683 (October 15, 2013), 78 FR 62798 (October 22, 2013) (SR-CBOE-2013-087) (establishing Professional and Non-Professional User fees for Cboe Options COB Data Feed).

redistribution of Book Depth Data Feed via the current fee waiver.²³ Moreover, the Book Depth Data Feed is purely optional. Only those Customers that deem the product to be of sufficient overall value and usefulness would purchase it. Additionally, the Exchange is not required to provide any such waiver to any Distributors of Cboe Options Top Data. The Exchange believes the proposed change is equitable and not unfairly discriminatory as it will apply uniformly to External Distributors.

The proposed Enterprise Fee for Cboe Options Top Feed is equitable and reasonable as the proposed fee could result in a fee reduction for recipient firms with a large number of Professional and Non-Professional Users. If a recipient firm has a smaller number of Professional Users of Cboe Options Top Data, then it may continue using the per User structure and benefit from the proposed per User Fee reductions. By reducing prices for recipient firms with a large number of Professional and Non-Professional Users, the Exchange believes that more firms may choose to receive and to distribute Cboe Options Top Data, thereby expanding the distribution of this market data for the benefit of investors.

The Exchange further believes that the proposed Enterprise Fee is reasonable because it will simplify reporting for certain recipients that have large numbers of Professional and Non-Professional Users. Firms that pay the proposed Enterprise Fee will not have to report the number of Users on a monthly basis as they currently do, but rather will only have to count authorized users every six months, which is a significant reduction in administrative burden. Finally, as described above the Enterprise Fee is entirely optional. A firm that does not have a sufficient number of subscribers to benefit from purchase of the license need not do so.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change would result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange operates in a highly competitive environment, and its ability to price top-of-book data is constrained by competition among exchanges that offer similar data products to their

customers. Top-of-book data is broadly disseminated by competing U.S. options exchanges and through OPRA. There are therefore a number of alternative products available to market participants and investors, including products offered by certain competing exchanges. Further, the Exchange's proposal to eliminate the waiver of Book Depth Data data fee for External Distributors of Cboe Options Top Data involves no change to the existing fees, but simply eliminates a waiver. Other exchanges are free to adopt a similar waiver if they choose. In this competitive environment potential subscribers are free to choose which competing product to purchase to satisfy their need for market information. Often, the choice comes down to price, as market data customers look to purchase cheaper data products, and quality, as market participants seek to purchase data that represents significant market liquidity.

The Exchange believes that the proposed fees do not put any market participants at a relative disadvantage compared to other market participants. As discussed, the proposed fees and eliminated waiver would apply to all similarly situated recipient firms of Cboe Options Top on an equal and non-discriminatory basis. The Exchange believes the reduced fees for External Distributors and not Internal Distributors of Cboe Options Top is appropriate given External Distributors are subject to the proposed Non-Professional user fees to which Internal Distributors are not subject, in addition to the proposed Professional User fees. The Exchange believes the differentiated fees for Professional and Non-Professional Users of Cboe options Top is appropriate given Professional Users are categorized as such based on their employment and participation in financial markets, and thus, are compensated to participate in the markets. Non-Professional Users too can receive significant financial benefits through their participation in the markets, however the Exchange believes it is reasonable to charge more to those Users who are more directly engaged in the markets. The Exchange therefore believes that the proposed fee neither favors nor penalizes one or more categories of market participants in a manner that would impose an undue burden on competition.

The Exchange believes that the proposed fees do not impose a burden on competition or on other SROs that is not necessary or appropriate in furtherance of the purposes of the Act. In particular, market participants are not forced to subscribe to Cboe Options Top

Data, or any of the Exchange's data feeds, as described above. Also as described above, there are numerous substitute products offered by other national securities exchanges, as well as OPRA. Because market data customers can find suitable substitute feeds, an exchange that overprices its market data products stands a high risk that users may substitute another product. These competitive pressures ensure that no one exchange's market data fees can impose an undue burden on competition, and the Exchange's proposed fees do not do so here.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any written comments from members or other interested parties.

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 Act²⁴ and paragraph (f) of Rule 19b-4²⁵ 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 (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-CBOE-2023-001 in the subject line.

²⁴ 15 U.S.C. 78s(b)(3)(A).

²⁵ 17 CFR 240.19b-4(f).

²³ See Securities Exchange Act Release No. 70683 (October 15, 2013), 78 FR 62798 (October 22, 2013) (SR-CBOE-2013-087).

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2023–001. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2023–001 and should be submitted on or before February 13, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁶

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2023–01114 Filed 1–20–23; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–96683; File No. SR–NYSECHX–2023–01]

Self-Regulatory Organizations; NYSE Chicago, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Its Schedule of Fees and Rebates

January 17, 2023.

Pursuant to section 19(b)(1)¹ of the Securities Exchange Act of 1934 (the “Act”),² and Rule 19b–4 thereunder,³ notice is hereby given that on January 3, 2023, the NYSE Chicago, Inc. (“NYSE Chicago” or the “Exchange”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Schedule of Fees and Rebates (the “Fee Schedule”) with respect to certain regulatory fees related to the Central Registration Depository (“CRD” or “CRD system”), which are collected by the Financial Industry Regulatory Authority, Inc. (“FINRA”). The Exchange proposes to implement the fee change on January 3, 2023. 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 Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Fee Schedule with respect to certain regulatory fees collected by FINRA for use of CRD.⁴ The Exchange proposes to implement the fee changes effective January 3, 2023.

FINRA collects and retains certain regulatory fees via CRD for the registration of associated persons of Exchange Participants that are not FINRA members (“Non-FINRA Participants”).⁵ CRD fees are user-based, and there is no distinction in the cost incurred by FINRA if the user is a FINRA member or a Non-FINRA Participant.

FINRA recently amended two of the fees assessed for use of the CRD system.⁶ Accordingly, the Exchange proposes to amend the Fee Schedule to mirror the fees assessed by FINRA, which will be implemented concurrently with the amended FINRA fee as of January 2023.⁷ Specifically, the Exchange proposes to amend the Fee Schedule to modify the fee charged to Non-FINRA Participants for additional processing of each initial or amended Form U4, Form U5 or Form BD that includes the initial reporting, amendment, or certification of one or more disclosure events or proceedings

⁴ CRD is the central licensing and registration system for the U.S. securities industry. The CRD system enables individuals and firms seeking registration with multiple states and self-regulatory organizations to do so by submitting a single form, fingerprint card, and a combined payment of fees to FINRA. Through the CRD system, FINRA maintains the qualification, employment, and disciplinary histories of registered associated persons of broker-dealers.

⁵ The Exchange originally adopted fees for use of the CRD system in 2008 and amended those fees in 2013 and 2022. See Securities Exchange Act Release No. 57587 (March 31, 2008), 73 FR 18598 (April 4, 2008) (SR–CHX–2007–21); Securities Exchange Act Release No. 68647 (January 14, 2013), 78 FR 4506 (January 22, 2013) (SR–CHX–2013–01); Securities Exchange Act Release No. 93907 (January 5, 2022), 87 FR 1468 (January 11, 2022) (SR–NYSECHX–2021–18). While the Exchange lists these fees in its Fee Schedule, it does not collect or retain these fees.

⁶ See Securities Exchange Act Release No. 90176 (October 14, 2020), 85 FR 66592 (October 20, 2020) (SR–FINRA–2020–032).

⁷ The Exchange notes that it has only adopted the CRD system fees charged by FINRA to Non-FINRA Participants when such fees are applicable. In this regard, certain FINRA CRD system fees and requirements are specific to FINRA members, but do not apply to NYSE Chicago-only Participants. Non-FINRA Participants have been charged CRD system fees since 2008. See note 5, *supra*. Participants that are also FINRA members are charged CRD system fees according to Section 4 of Schedule A to the FINRA By-Laws.

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b–4.

²⁶ 17 CFR 200.30–3(a)(12).

from \$110 to \$155⁸ and the fee for processing and posting to the CRD system each set of fingerprints submitted electronically to FINRA, plus any other charge that may be imposed by the U.S. Department of Justice for processing each set of fingerprints, from \$15 to \$20.⁹

The Exchange notes that the proposed change is not otherwise intended to address any other issues surrounding regulatory fees, and the Exchange is not aware of any problems that Participants would have in complying with the proposed change.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act,¹⁰ in general, and furthers the objectives of section 6(b)(4)¹¹ of the Act, in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges. The Exchange also believes that the proposed rule change is consistent with section 6(b)(5) of the Act,¹² in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that the proposed fee change is reasonable because the fee will be identical to that adopted by FINRA as of January 2023 for use of the CRD system to submit an initial or amended Form U4, Form U5 or Form BD that includes the initial reporting, amendment, or certification of one or more disclosure events or proceedings and the posting to CRD each set of fingerprints submitted electronically to FINRA. The costs of operating and improving the CRD system are similarly borne by FINRA when a Non-FINRA Participant uses the CRD system; accordingly, the fees collected for such use should, as proposed by the Exchange, mirror the fees assessed to FINRA members. In addition, as FINRA noted in amending its fees, it believes that its proposed

pricing structure is reasonable and correlates fees with the components that drive its regulatory costs to the extent feasible. The Exchange further believes that the change is reasonable because it will provide greater specificity regarding the CRD system fees that are applicable to Non-FINRA Participants. All similarly situated Participants are subject to the same fee structure, and every Participant must use the CRD system for registration and disclosure. Accordingly, the Exchange believes that the fees collected for such use should likewise increase in lockstep with the fees assessed to FINRA members, as is proposed by the Exchange.

The Exchange also believes that the proposed fee change provides for the equitable allocation of reasonable fees and other charges, and does not unfairly discriminate between customers, issuers, brokers, and dealers. The fee applies equally to all individuals and firms required to report information to the CRD system, and the proposed change will result in the same regulatory fees being charged to all Participants required to report information to CRD and for services performed by FINRA regardless of whether such Participants are FINRA members. Accordingly, the Exchange believes that the fee collected for such use should increase in lockstep with the fee adopted by FINRA as of January 2023, as is proposed by the Exchange.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with section 6(b)(8) of the Act,¹³ the Exchange believes that the proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Specifically, the Exchange believes that the proposed change will reflect fees that will be assessed by FINRA as of January 2023 and will thus result in the same regulatory fees being charged to all Participants required to report information to the CRD system and for services performed by FINRA, regardless of whether or not such Participants are FINRA members.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to section 19(b)(3)(A)¹⁴ of the Act and subparagraph (f)(2) of Rule 19b-4¹⁵ thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under section 19(b)(2)(B)¹⁶ of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-NYSECHX-2023-01 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-NYSECHX-2023-01. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the

⁸ See Section (4)(b)(3) of Schedule A to the FINRA By-laws.

⁹ See Section (4)(b)(4) of Schedule A to the FINRA By-laws.

¹⁰ 15 U.S.C. 78f(b).

¹¹ 15 U.S.C. 78f(b)(4).

¹² 15 U.S.C. 78f(b)(5).

¹³ See 15 U.S.C. 78f(b)(8).

¹⁴ 15 U.S.C. 78s(b)(3)(A).

¹⁵ 17 CFR 240.19b-4(f)(2).

¹⁶ 15 U.S.C. 78s(b)(2)(B).

Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSECHX-2023-01, and should be submitted on or before February 13, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁷

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023-01123 Filed 1-20-23; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-96678; File No. SR-CboeBZX-2023-002]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating To Amend Its Fee Schedule

January 17, 2023.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on January 3, 2023, Cboe BZX Exchange, Inc. (the "Exchange" or "BZX") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

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 existing NBBO Setter Program and deleting a definition that is no longer applicable, effective January 3, 2023.

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 15% 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 \$0.0016 per share for orders that add liquidity and assesses a fee of \$0.0030 per share for orders that remove liquidity. For orders in securities priced below \$1.00, the Exchange does not provide a rebate or assess a fee for orders that add liquidity and assesses a fee of 0.30% of total dollar value for orders that remove liquidity. Additionally, in response to the competitive environment, the Exchange also offers tiered pricing, which provides Members with opportunities to qualify for higher rebates or lower 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 more stringent criteria.

Under footnote 20 of the Fee Schedule, the Exchange offers the NBBO Setter Program, which is designed to improve market quality on the Exchange in certain securities. Specifically, qualifying orders in specific securities that yield fee codes B,⁴ V,⁵ and Y⁶ are eligible for an additive rebate under Tier 1 of the NBBO Setter Program (the "NBBO Setter Tier"). Currently, the Exchange provides an additional rebate of \$0.0003 per share to Market Participant Identifiers ("MPIDs") that have a Step-Up Setter ADAV⁷ from May 2022 that is equal to or greater than 350,000 for orders in NBBO Setter Securities⁸ that establish a new Setter NBBO.⁹

⁴ Orders yielding Fee Code "B" are displayed orders adding liquidity to BZX (Tape B).

⁵ Orders yielding Fee Code "V" are displayed orders adding liquidity to BZX (Tape A).

⁶ Orders yielding Fee Code "Y" are displayed orders adding liquidity to BZX (Tape C).

⁷ "Step-Up Setter ADAV" means Baseline Setter ADAV in the relevant baseline month subtracted from Current Setter ADAV.

⁸ "NBBO Setter Securities" means a list of securities included in the NBBO Setter Program, the universe of which will be determined by the Exchange and published in a Notice distributed to Members and on the Exchange's website. The Exchange will not remove a security from the list of NBBO Setter Securities without 30 days prior notice (unless the security is no longer eligible for trading on the Exchange).

⁹ "Setter NBBO" means a quotation of at least 100 shares that is better than the NBBO or a quotation of a notional size of at least \$10,000 that is better than the NBBO.

¹⁷ 17 CFR 200.30-3(a)(12).

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 (December 15, 2022), available at https://www.cboe.com/us/equities/market_statistics/.

Now, the Exchange proposes to increase the applicable additional rebate of the NBBO Setter Tier to \$0.0007 per share and to modify the criteria as follows:

(1) MPID has a Step-Up ADAV ¹⁰ from November 2022 greater than or equal to 5,000,000; and

(2) MPID has a Current Setter ADAV ¹¹ greater than or equal to 3,000,000.

Based on the above proposed change, the Exchange also proposes to delete the definition of Step-Up Setter ADAV from the Fee Schedule as it is no longer applicable.

The Exchange notes that the NBBO Setter Program will continue to be available to all Members and MPIDs and will provide Members and MPIDs an opportunity to receive an additional enhanced rebate (*i.e.*, in addition to the applicable standard rebate and any other applicable tier). Moreover, the proposed change is designed to encourage Members that provide displayed liquidity on the Exchange to increase their overall add volume order flow, not just volume in NBBO Setter Securities that establish the NBBO, which would benefit all Members by providing greater execution opportunities on the Exchange and contribute to a deeper, more liquid market, to the benefit of all investors.

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.¹² Specifically, the Exchange believes the proposed rule change is consistent with the section 6(b)(5) ¹³ requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with

the Section 6(b)(5) ¹⁴ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes that the proposed modified NBBO Setter Tier is reasonable, equitable, and not unfairly discriminatory. The proposed NBBO Setter Tier reflects a competitive pricing structure designed to incentivize participants to direct their order flow to the Exchange and enhance market quality in NBBO Setter Securities. Particularly, the Exchange believes the NBBO Setter Program tier, which provides an additional rebate to qualifying orders, continues to provide a reasonable means to encourage overall growth in Members' MPID order flow that establishes a Setter NBBO in NBBO Setter Securities. The Exchange believes the proposed first prong of the criteria under the NBBO Setter Program Tier 1 is also reasonably designed to incentivize overall growth in Members' MPID liquidity adding order flow in all securities. An overall increase in activity would deepen the Exchange's liquidity pool, offer more narrow spreads, support the quality of price discovery, promote market transparency, and improve market quality for all investors.

The Exchange believes that allowing MPIDs to qualify for the additive rebate under the NBBO Setter Tier by meeting the proposed criteria will promote price discovery and market quality in NBBO Setter Securities and, further, that the tightened spreads and increased liquidity from the proposal will benefit all investors by deepening the Exchange's liquidity pool, offering the potential for execution at more aggressive prices, supporting the quality of price discovery, enhancing quoting competition across exchanges, promoting market transparency, and improving investor protection.

The Exchange notes that the NBBO Setter Tier, even as amended, is not dissimilar from other volume-based rebates and fees ("Volume Tiers") that have been widely adopted by exchanges, including the Exchange, and are equitable and not unfairly discriminatory because it is open to all Members on an equal basis and provides a rebate that is reasonably related to the value of an Exchange's market quality. Much like Volume Tiers are generally designed to incentivize higher levels of liquidity on the Exchange, the NBBO Setter Tier is designed to incentivize enhanced market quality on the Exchange through tighter spreads, greater size at the inside, and greater

quoting depth in NBBO Setter Securities by offering an additive rebate in NBBO Setter Securities. As such, the Exchange believes the proposed additive rebate in qualifying orders for NBBO Setter Securities will act to enhance liquidity and competition across exchanges in NBBO Setter Securities by providing a rebate reasonably related to such enhanced market quality to the benefit of all investors, thereby promoting the principles discussed in section 6(b)(5) of the Act. Additionally, the Exchange notes that the tier, even as amended, is comparable to other pricing tiers adopted by the Exchange and other exchanges that provide an enhanced rebate or supplemental incentive for firms that achieve a specified volume threshold in a specified group of securities.¹⁵

The Exchange also believes that the proposal represents an equitable allocation of reasonable dues, fees, and other charges because the criteria necessary to achieve the tier encourages Members to add liquidity on the Exchange. Further, the Exchange believes the proposed criteria, while more stringent than the current criteria, is commensurate with the proposed rebate, which is higher than the current rebate.¹⁶ Moreover, the Exchange notes that it plans to add 223 symbols to the NBBO Setter Securities list (which would increase the number of NBBO Setter Securities to a total of 776 symbols) in tandem with this proposal, thereby providing additional opportunities for MPIDs to meet the proposed NBBO Setter Tier's criteria.

The Exchange believes that the proposal is also not unfairly discriminatory because all Members and MPIDs will continue to be eligible for the NBBO Setter Tier rebates and have the opportunity to meet the Tier's criteria and receive the corresponding additional 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 these proposed changes would definitely result in any Members qualifying for the NBBO Setter Tier. 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

¹⁰ "Step-Up ADAV" means ADAV in the relevant baseline month subtracted from current ADAV.

¹¹ "Current Setter ADAV" means ADAV calculated as the number of displayed shares added per day that establish a new Setter NBBO in NBBO Setter Securities.

¹² 15 U.S.C. 78f(b).

¹³ 15 U.S.C. 78f(b)(5).

¹⁴ *Id.*

¹⁵ See Exchange Fee Schedule, Footnote 13, Tape B Volume and Quoting Tiers. See also MEMX Fee Schedule, Displayed Liquidity Incentive Tiers and Nasdaq Fee Schedule, NBBO Program.

¹⁶ The Exchange notes that it plans to add 223 symbols to the NBBO Setter Securities list in tandem with this proposal, thereby providing additional opportunities for MPIDs to meet the proposed NBBO Setter Tier's criteria.

approximately two Members (one MPID each) will be able to compete for and reach the criteria under the NBBO Setter Tier, as amended. The Exchange also notes that 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 simply not receive that additional rebate.

The Exchange also believes that the clarifying change to delete a non-applicable definition (*i.e.*, the "Step-Up Setter ADAV" definition) from the Definitions section of the Fee Schedule is reasonable, fair and equitable and non-discriminatory because it is nonsubstantive and is designed to make sure that the Fee Schedule is as clear and understandable as possible. The Exchange notes the Step-Up Setter ADAV definition was only applicable to the existing NBBO Setter Tier, and as proposed is no longer applicable to the NBBO Setter Tier. Further, it is not otherwise applicable to any fees, rebates, or other incentive programs.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

The Exchange believes the proposed rule change does not impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. Particularly, the NBBO Setter Tier, as proposed, will continue to be eligible to all Members and MPIDs equally in that all Members and MPIDs have the opportunity to submit orders that could set the Setter NBBO and therefore qualify for the proposed increased additive rebate in NBBO Setter Securities. Furthermore, the Exchange believes that the proposed NBBO Setter Tier would incentivize Members to submit additional aggressively priced displayed liquidity to the Exchange, and to increase their order flow on the Exchange generally, thereby contributing to a deeper and more liquid market and promoting price discovery and market quality on the Exchange to the benefit of all market participants and enhancing the attractiveness of the Exchange as a trading venue, which the Exchange believes, in turn, would continue to encourage market participants to direct additional order flow to the Exchange. Greater liquidity benefits all Members by providing more trading opportunities and encourages Members to send additional orders to the Exchange,

thereby contributing to robust levels of liquidity, which benefits all market participants. The proposed non-substantive change to the Definitions section of the Fee Schedule is similarly non-burdensome as it will be available to all Members and provide a clear description of the terms applicable to the Fee Schedule.

The Exchange notes that as proposed the NBBO Setter Program does not impose a burden on intermarket competition as the proposal is intended to increase competition in U.S. equity securities that the Exchange believes will contribute to a deeper and more liquid market in these securities, which would in turn promote price discovery and market quality on the Exchange to the benefit of all market participants and enhancing the attractiveness of the Exchange as a trading venue, which the Exchange believes, in turn, would continue to encourage market participants to direct additional order flow to the Exchange. The Exchange does not believe that the proposed changes represent a significant departure from pricing current offered by the Exchange or pricing offered by other equities exchanges. Members may opt to disfavor the Exchange's pricing if they believe that alternatives offer them better value. Accordingly, the Exchange does not believe that the proposed changes will impair the ability of Members or competing venues to maintain their competitive standing in the financial markets. 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 15% 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

¹⁷ *Supra* note 3.

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

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 Act²⁰ and paragraph (f) of Rule 19b-4²¹ 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.

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 (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-CboeBZX-2023-002 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-CboeBZX-2023-002. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-CboeBZX-2023-002 and should be submitted on or before February 13, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²²

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2023-01118 Filed 1-20-23; 8:45 am]

BILLING CODE 8011-01-P

DEPARTMENT OF STATE

[Public Notice 11975]

Notice of Determinations; Culturally Significant Object Being Imported for Exhibition—Determinations: “Chosen Memories: Contemporary Latin American Art From the Patricia Phelps de Cisneros Gift and Beyond” Exhibition

SUMMARY: Notice is hereby given of the following determinations: I hereby determine that a certain object being imported from abroad pursuant to an agreement with its foreign owner or custodian for temporary display in the exhibition “Chosen Memories: Contemporary Latin American Art from the Patricia Phelps de Cisneros Gift and Beyond” at The Museum of Modern Art, New York, New York, and at possible additional exhibitions or venues yet to be determined, is of cultural significance, and, further, that its temporary exhibition or display within the United States as aforementioned is in the national interest. I have ordered that Public Notice of these determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Elliot Chiu, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202-632-6471; email: section2459@state.gov). The mailing address is U.S. Department of State, L/PD, 2200 C Street NW (SA-5), Suite 5H03, Washington, DC 20522-0505.

SUPPLEMENTARY INFORMATION: The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), E.O. 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236-3 of August 28, 2000, and Delegation of Authority No. 523 of December 22, 2021.

Stacy E. White,

Deputy Assistant Secretary for Professional and Cultural Exchanges, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2023-01158 Filed 1-20-23; 8:45 am]

BILLING CODE 4710-05-P

DEPARTMENT OF STATE

[Public Notice: 11970]

Notice of Determinations; Culturally Significant Objects Being Imported for Exhibition—Determinations: “Near East to Far West: Fictions of French and American Colonialism” Exhibition

SUMMARY: Notice is hereby given of the following determinations: I hereby determine that certain objects being imported from abroad pursuant to agreements with their foreign owners or custodians for temporary display in the exhibition “Near East to Far West: Fictions of French and American Colonialism” at the Denver Art Museum, Denver, Colorado, and at possible additional exhibitions or venues yet to be determined, are of cultural significance, and, further, that their temporary exhibition or display within the United States as aforementioned is in the national interest. I have ordered that Public Notice of these determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Elliot Chiu, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202-632-6471; email: section2459@state.gov). The mailing address is U.S. Department of State, L/PD, 2200 C Street NW (SA-5), Suite 5H03, Washington, DC 20522-0505.

SUPPLEMENTARY INFORMATION: The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), E.O. 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236-3 of August 28, 2000, and Delegation of Authority No. 523 of December 22, 2021.

Stacy E. White,

Deputy Assistant Secretary for Professional and Cultural Exchanges, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2023-01153 Filed 1-20-23; 8:45 am]

BILLING CODE 4710-05-P

²² 17 CFR 200.30-3(a)(12).

DEPARTMENT OF STATE**[Public Notice: 11971]****Notice of Determinations; Culturally Significant Objects Being Imported for Exhibition—Determinations: “Portals: The Visionary Architecture of Paul Goesch” Exhibition**

SUMMARY: Notice is hereby given of the following determinations: I hereby determine that certain objects being imported from abroad pursuant to an agreement with their foreign owner or custodian for temporary display in the exhibition “Portals: The Visionary Architecture of Paul Goesch” at the Sterling and Francine Clark Art Institute, Williamstown, Massachusetts, and at possible additional exhibitions or venues yet to be determined, are of cultural significance, and, further, that their temporary exhibition or display within the United States as aforementioned is in the national interest. I have ordered that Public Notice of these determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Elliot Chiu, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: section2459@state.gov). The mailing address is U.S. Department of State, L/PD, 2200 C Street NW (SA–5), Suite 5H03, Washington, DC 20522–0505.

SUPPLEMENTARY INFORMATION: The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), E.O. 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000, and Delegation of Authority No. 523 of December 22, 2021.

Stacy E. White,

Deputy Assistant Secretary for Professional and Cultural Exchanges, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2023–01154 Filed 1–20–23; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE**[Public Notice: 11968]****Notice of Determinations; Culturally Significant Object Being Imported for Exhibition—Determinations: “Cecily Brown: Death and the Maid” Exhibition**

SUMMARY: Notice is hereby given of the following determinations: I hereby

determine that a certain object being imported from abroad pursuant to an agreement with its foreign owner or custodian for temporary display in the exhibition “Cecily Brown: Death and the Maid” at The Metropolitan Museum of Art, New York, New York, and at possible additional exhibitions or venues yet to be determined, is of cultural significance, and, further, that its temporary exhibition or display within the United States as aforementioned is in the national interest. I have ordered that Public Notice of these determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Elliot Chiu, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: section2459@state.gov). The mailing address is U.S. Department of State, L/PD, 2200 C Street NW (SA–5), Suite 5H03, Washington, DC 20522–0505.

SUPPLEMENTARY INFORMATION: The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), E.O. 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000, and Delegation of Authority No. 523 of December 22, 2021.

Stacy E. White,

Deputy Assistant Secretary for Professional and Cultural Exchanges, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2023–01151 Filed 1–20–23; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****[Docket No. FAA–2022–0716]****Agency Information Collection****Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Changes in Permissible Stage 2 Airplane Operations**

AGENCY: Federal Aviation Administration (FAA), DOT.
ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB)

approval to renew an information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on May 27, 2022. The collection involves information used to issue special flight authorizations for non-revenue transports and non-transport jet operations of Stage 2 airplanes at U.S. airports. Only a minimal amount of data is requested to identify the affected parties and determine whether the purpose for the flight is one of those enumerated by law. This collection is required under the Airport Noise and Capacity Act of 1990 and the FAA Modernization and Reform Act of 2012.

DATES: Written comments should be submitted by February 22, 2023.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function.

FOR FURTHER INFORMATION CONTACT: Sandy Liu by email at: sandy.liu@faa.gov; phone: 202–267–4748.

SUPPLEMENTARY INFORMATION:

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA’s performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information.

OMB Control Number: 2120–0652.

Title: Changes in Permissible Stage 2 Airplane Operations.

Form Numbers: FAA Form 1050–8.

Type of Review: Renewal of an information collection.

Background: The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on May 27, 2022 (87 FR 32224). This collection is required under the Airport Noise and Capacity Act of 1990 (as amended by Pub. L. 106–113) and the FAA Modernization and Reform Act of 2012. This information is used by the FAA to issue special flight authorizations for nonrevenue operations of transports and non-transport jet Stage 2 airplanes at U.S. airports. Only minimal amount of data is requested to identify the affected

parties and determine whether the purpose for the flight is one of the ones enumerated in the law.

Respondents: Approximately 21 applicants.

Frequency: Information is collected on occasion.

Estimated Average Burden per Response: 15 minutes.

Estimated Total Annual Burden: 5.25 hours.

Issued in Washington, DC, on January 18, 2023.

Sandy Liu,

Engineer, Noise Division, Office of Environment and Energy, Noise Division, E-100.

[FR Doc. 2023-01190 Filed 1-20-23; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Federal Transit Administration

Notice of Recent Statutory Changes and Change of Date for the Annual Index for Inflation of the Monetary Thresholds for the Limited Federal Financial Assistance Categorical Exclusions

AGENCY: Federal Highway Administration (FHWA), Federal Transit Administration (FTA), Department of Transportation (DOT).

ACTION: Notice.

SUMMARY: This notice announces recent statutory changes affecting the monetary thresholds for the limited Federal financial assistance categorical exclusions (CE) established by FHWA and FTA in regulations. This notice also announces an amendment to the timeframe that FHWA and FTA will use for the annual index for inflation of the monetary thresholds for those CEs, from January (calendar year) to October (fiscal year) of each year.

DATES: FHWA and FTA incorporated the annual adjustment for inflation of the monetary thresholds for the limited Federal financial assistance CEs on October 1, 2022, and will incorporate future annual adjustments in October of subsequent years.

FOR FURTHER INFORMATION CONTACT: For FHWA: Diane Mobley, Senior Attorney-Advisor, Office of the Chief Counsel, (202) 366-1366, or Robert Washington, Environmental Protection Specialist, Office of Project Development and Environmental Review, (202) 366-4651. For FTA: Mark Montgomery, Attorney-Advisor, Office of Chief Counsel, (202) 366-1017, or Dee Phan, Environmental

Protection Specialist, Office of Environmental Programs, (202) 366-1799. FHWA and FTA are located at 1200 New Jersey Avenue SE, Washington, DC. 20590. Office hours are from 9:00 a.m. to 5:00 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: The Moving Ahead for Progress in the 21st Century Act (MAP-21), Public Law 112-141, 126 Stat. 405, signed into law on July 6, 2012, contained new requirements that FHWA and FTA (hereafter referred to as “the Agencies”) must meet in complying with the National Environmental Policy Act (NEPA) (42 U.S.C. 4321 *et seq.*). Section 1317 required the Agencies to promulgate regulations designating as a CE any project that receives less than \$5,000,000 of Federal funds or with a total estimated cost of not more than \$30,000,000 and Federal funds comprising less than 15 percent of the total estimated project cost. Accordingly, the Agencies established limited Federal financial assistance CEs for FHWA at 23 CFR 771.117(c)(23) and for FTA at 23 CFR 771.118(c)(13), which were published in a final rule in the **Federal Register** on January 13, 2014 (79 FR 2107).

Subsequently, the Fixing America’s Surface Transportation (FAST) Act, Public Law 114-94, 129 Stat. 1312, enacted on December 4, 2015, amended section 1317 of MAP-21 by inserting “(as adjusted annually by the Secretary to reflect any increases in the Consumer Price Index prepared by the U.S. Department of Labor)” after “\$5,000,000” in paragraph (1)(A) and after “\$30,000,000” in paragraph (1)(B) of the CE for projects receiving limited Federal financial assistance. In a subsequent final rule, published in the **Federal Register** on May 31, 2016 (81 FR 34271), the Agencies amended the limited Federal financial assistance CEs to incorporate the adjustment for inflation requirement created by the FAST Act. The Agencies included a reference to their respective websites (www.fhwa.dot.gov and www.fta.dot.gov) in the CE language to provide a source for locating the consumer price index (CPI), as adjusted annually. At that time, the Agencies determined that the thresholds for the CEs would be updated annually in January of subsequent years.

On November 15, 2021, President Biden signed into law the Infrastructure Investment and Jobs Act (IIJA), also known as the Bipartisan Infrastructure Law (BIL), Public Law 117-58, 135 Stat. 429, which amended the thresholds for the CEs for projects receiving limited

Federal financial assistance established by section 1317 of MAP-21. Section 11317 of BIL replaced “5,000,000” with “6,000,000” in paragraph (1)(A) and “30,000,000” with “35,000,000” in paragraph (1)(B). While the Agencies intend to update 23 CFR 771.117(c)(23) and 23 CFR 771.118(c)(13) to reflect these new thresholds in a subsequent rulemaking, the new thresholds are self-executing as of the effective date of BIL, which was October 1, 2021. The Agencies determined that the CPI adjustment required by the FAST Act would occur one year from that effective date. Notice is hereby given that the Agencies incorporated the adjustment for inflation on October 1, 2022, for the period from June 1, 2021, to May 31, 2022, and the Agencies will incorporate future annual adjustments in October of each subsequent year for the preceding period from June 1 to May 31. The Agencies plan to do so by providing information about the annual adjustment on their respective websites (https://www.environment.fhwa.dot.gov/Legislation/authorizations/bil/bil_guidance.aspx and <https://www.transit.dot.gov/regulations-and-guidance/environmental-programs/guidance-implementation-ftas-categorical-exclusions>) and will no longer publish a **Federal Register** notice every year.

Authority: Sec. 1317, Pub. L. 112-141, 126 Stat. 405, as amended by section 1314, Pub. L. 114-94, 129 Stat. 1312; section 11317, Pub. L. 117-58, 135 Stat. 543.

Stephanie Pollack,

Acting Administrator, FHWA.

Nuria Fernandez,

Administrator, FTA.

[FR Doc. 2023-01137 Filed 1-20-23; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA-2012-0067]

Petition for Extension of Waiver of Compliance

Under part 211 of title 49 Code of Federal Regulations (CFR), this document provides the public notice that on November 30, 2022, the Peninsula Corridor Joint Powers Board (JPBX), which owns and operates Caltrain, petitioned the Federal Railroad Administration (FRA) for an extension of a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR part 215 (Railroad Freight Car Safety

Standards). The relevant FRA Docket Number is FRA-2012-0067.

Specifically, JPBX requested to extend its special approval pursuant to 49 CFR 215.203, *Restricted cars*, for 2 flat-straight deck cars, JPBX 711 and JPBX 712, that are more than 50 years from the date of original construction. JPBX also requests to extend its existing relief from 49 CFR 215.303, *Stenciling of restricted cars*. JPBX seeks to continue use of the cars to transport decorations during its annual Holiday Train event. In support of its request, JPBX states that the cars have been inspected and determined to be safe for continued operation and they will not be interchanged.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at www.regulations.gov.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted at <http://www.regulations.gov>. Follow the online instructions for submitting comments.

Communications received by March 24, 2023 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable.

Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), the U.S. Department of Transportation (DOT) solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at <https://www.transportation.gov/privacy>. See also <https://www.regulations.gov/privacy-notice> for the privacy notice of www.regulations.gov.

Issued in Washington, DC.

John Karl Alexy,

*Associate Administrator for Railroad Safety
Chief Safety Officer.*

[FR Doc. 2023-01169 Filed 1-20-23; 8:45 am]

BILLING CODE 4910-06-P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA-2008-0161]

Petition for Extension of Waiver of Compliance

Under part 211 of title 49 Code of Federal Regulations (CFR), this document provides the public notice that by letter dated November 29, 2022, Alaska Railroad Corporation (ARRC) petitioned the Federal Railroad Administration (FRA) for an extension of a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR part 238 (Passenger Equipment Safety Standards). The relevant FRA Docket Number is FRA-2008-0161.

Specifically, ARRC requests to extend its relief from § 238.303, *Exterior calendar day mechanical inspection of passenger equipment*, and § 238.313, *Class I brake test*, for its Hurricane Turn passenger train equipment, consisting of two locomotives, three passenger coaches, and one baggage car. ARRC states that the requirement for a qualified maintenance person (QMP) to complete the inspections would cause hardship, as “there is not enough work to support a [QMP] position” in Talkeetna, Alaska, where the equipment is stored, and the nearest QMP would have to drive 224 miles each day from Anchorage, Alaska. This equipment is operated in seasonal service five days a week, one round trip per day, between Talkeetna, Alaska, and Hurricane Gulch Bridge, Alaska.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at www.regulations.gov.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the

appropriate docket number and may be submitted at <http://www.regulations.gov>. Follow the online instructions for submitting comments.

Communications received by March 24, 2023 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable.

Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), the U.S. Department of Transportation (DOT) solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at <https://www.transportation.gov/privacy>. See also <https://www.regulations.gov/privacy-notice> for the privacy notice of www.regulations.gov.

Issued in Washington, DC.

John Karl Alexy,

*Associate Administrator for Railroad Safety
Chief Safety Officer.*

[FR Doc. 2023-01178 Filed 1-20-23; 8:45 am]

BILLING CODE 4910-06-P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA-2022-0081]

Petition for Waiver of Compliance

Under part 211 of title 49 Code of Federal Regulations (CFR), this document provides the public notice that by letter dated December 7, 2022, Virginia & Truckee Railroad Company (VTRR) petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR 230.17, *One thousand four hundred seventy-two (1472) service day inspection*. FRA assigned the petition Docket Number FRA-2022-0081.¹

Specifically, VTRR requests relief for steam locomotive VTRR 29, which is used in public tourist excursions in

¹ VTRR initially petitioned for this relief by letter dated August 25, 2022. See <https://www.regulations.gov/document/FRA-2022-0081-0001>. On October 5, 2022, VTRR withdrew the August 25, 2022, petition in this docket. See <https://www.regulations.gov/document/FRA-2022-0081-0005>.

Virginia City, Nevada, in a National Historic District. Regarding the locomotive's 1472 service day inspection, VTRR requests to extend the period in which the inspection is due from June 11, 2023, to December 31, 2023, by which time VTRR 29 will have accumulated fewer than 1,200 service days. In support of its request, VTRR states that its railroad is insular, and the relief will help VTRR "make up for lost operating days due to the mandated shut town of [the] business and the detrimental effects of the pandemic to [the] company and to [the] community." VTRR adds that VTRR 29 received a new dry pipe in 2021 during an inspection of its boiler interior, and both interior and exterior boiler inspections were performed at each annual inspection since 2008. VTRR also states it "exercises complete control of the operation, inspection, maintenance, and repairs" of VTRR 29.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at www.regulations.gov.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted at <http://www.regulations.gov>. Follow the online instructions for submitting comments.

Communications received by March 24, 2023 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable.

Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), the U.S. Department of Transportation (DOT) solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at

<https://www.transportation.gov/privacy>. See also <https://www.regulations.gov/privacy-notice> for the privacy notice of [regulations.gov](https://www.regulations.gov).

Issued in Washington, DC.

John Karl Alexy,
Associate Administrator for Railroad Safety,
Chief Safety Officer.

[FR Doc. 2023-01172 Filed 1-20-23; 8:45 am]

BILLING CODE 4910-06-P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA-2022-0105]

Petition for Waiver of Compliance

Under part 211 of title 49 Code of Federal Regulations (CFR), this document provides the public notice that by letter dated November 21, 2022, Black River & Western Railroad Company (BRW) petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR 230.17, *One thousand four hundred seventy-two (1472) service day inspection*. FRA assigned the petition Docket Number FRA-2022-0105.

Specifically, BRW requests relief for steam locomotive No. 60, which is used in public tourist excursions. Regarding the locomotive's 1472 service day inspection, BRW requests to extend the period in which the inspection is due from May 1, 2023, to December 31, 2023. BRW states that No. 60 did not enter service until August 2011 and is expected to accrue only 350 service days by May 1, 2023. In support of its request, BRW states that the locomotive has been stored inside in a locked facility, has operated without incident, and had a successful annual inspection on August 30, 2022.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at www.regulations.gov.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the

appropriate docket number and may be submitted at <http://www.regulations.gov>. Follow the online instructions for submitting comments.

Communications received by March 24, 2023 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable.

Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), the U.S. Department of Transportation (DOT) solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at <https://www.transportation.gov/privacy>. See also <https://www.regulations.gov/privacy-notice> for the privacy notice of [regulations.gov](https://www.regulations.gov).

Issued in Washington, DC.

John Karl Alexy,
Associate Administrator for Railroad Safety,
Chief Safety Officer.

[FR Doc. 2023-01173 Filed 1-20-23; 8:45 am]

BILLING CODE 4910-06-P

DEPARTMENT OF TRANSPORTATION

Bureau of Transportation Statistics

[Docket Number RITA-2008-0002]

Agency Information Collection Activity; Notice To Continue To Collect: Confidential Close Call Transit Data for the Washington Metropolitan Area Transit Authority (WMATA)

AGENCY: Bureau of Transportation Statistics (BTS), Office of the Assistant Secretary for Research and Technology (OST-R), Department of Transportation.

ACTION: Notice to continue to collect confidential close call transit data.

SUMMARY: In accordance with the requirements of the Paperwork Reduction Act of 1995, this notice announces the intention of the Bureau of Transportation Statistics (BTS) to request the Office of Management and Budget (OMB) to use the approved OMB Number 2138-0044, and continue to collect the following information: Confidential Close Call Transit Data for the Washington Metropolitan Area Transit Authority (WMATA or the Authority), which includes but is not

limited to the collection of data from Rail, Bus, Information Technology, and Command Center personnel. This data collection effort supports a multi-year program focused on improving the Authority in its entirety, by collecting and analyzing data and information on close calls and other unsafe occurrences within WMATA. The program is co-sponsored by WMATA and labor leadership including: the President/Business Agent of the Amalgamated Transit Union (ATU) Local 689, the International Brotherhood of Teamsters (IBT) Local 922 and Office & Professional Employees International Union (OPEIU) Local 2. The Close Call program is designed to identify safety issues and propose preventive actions based on voluntary reports of a close call submitted confidentially to BTS, an Agency within the U.S. Department of Transportation. This information collection is necessary for systematically analyzing data to identify root causes of potentially unsafe events.

DATES: Written comments should be submitted by March 24, 2023.

ADDRESSES: To ensure that your comments are not entered more than once into the docket, submit comments by only one of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov> and follow the instructions for sending your comments electronically. Docket Number: DOT-OST-2017-0043.
- *Mail:* Docket Services, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Room W12-140, Washington, DC 20590-0001.
- *Hand Delivery:* Deliver to mail address above between 9 a.m. and 5 p.m. EST, Monday through Friday, except Federal holidays.
- *Fax:* (202) 493-2251.

Identify all transmissions with "Docket Number RITA-2008-0002" at the beginning of each page of the document.

Instructions: All comments must include the agency name and docket number for this notice. Paper comments should be submitted in duplicate. The Docket Management Facility is open for examination and copying, at the above address from 9 a.m. to 5 p.m. EST, Monday through Friday, except Federal holidays. If you wish to receive confirmation of receipt of your written comments, please include a self-addressed, stamped postcard with the following statement: "Comments on Docket Number RITA-2008-0002." The Docket Clerk will date stamp the postcard prior to returning it to you via the U.S. mail. Please note that all

comments received, including any personal information, will be posted and will be publicly viewable, without change, at www.regulations.gov. You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; pages 19477-78) or you may review the Privacy Act Statement at www.regulations.gov.

FOR FURTHER INFORMATION CONTACT:

Demetra V. Collia, Bureau of Transportation Statistics, Office of the Assistant Secretary for Research and Technology, U.S. Department of Transportation, Office of Safety Data and Analysis, RTS-31, E36-302, 1200 New Jersey Avenue SE, Washington, DC 20590-0001; Phone No. (202) 366-1610; Fax No. (202) 366-3383; email: demetra.collia@dot.gov. Office hours are from 8:30 a.m. to 5 p.m., EST, Monday through Friday, except Federal holidays.

Data Confidentiality Provisions:

Under this data collection, the confidentiality of the information submitted to BTS is protected under the BTS confidentiality statute (49 U.S.C. 6307) and the Confidential Information Protection and Statistical Efficiency Act (CIPSEA) of 2018 (Pub. L.: 115-435 Foundations for Evidence-Based Policymaking Act of 2018, Title III). In accordance with these confidentiality statutes, only statistical (aggregated) and non-identifying data will be made publicly available by BTS through its reports. BTS will not release to WMATA or any other public or private entity any information that might reveal the identity of individuals who have submitted a report.

SUPPLEMENTARY INFORMATION:

I. The Data Collection

The Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35; as amended) and 5 CFR part 1320 require each Federal agency to obtain OMB approval to initiate an information collection activity. BTS is seeking OMB approval to continue the following BTS information collection activity:

Title: Confidential Close Call Transit Data.

OMB Control Number: 2138-0044.

Type of Review: Continue to Collect.

Respondents: WMATA employees.

Number of Potential Responses: 150 (per annum).

Estimated Time per Response: 60 minutes.

Frequency: Intermittent for 3 years. Reports are submitted when there is a qualifying event.

Total Annual Burden: 150 hours.

Abstract: Collecting safety data on the nation's transportation system is an

important component of BTS's mission and responsibility to the transportation community and is authorized in BTS statute (49 U.S.C. 6302). BTS and WMATA share a common interest in promoting safety based on accurate information. To that end, WMATA and the Amalgamated Transit Union (ATU) Local 689, the International Brotherhood of Teamsters (IBT) Local 922 and Office & Professional Employees International Union (OPEIU) Local 2 have supported the Confidential Close Call Program at WMATA as a means of fostering an environment of ongoing advancements in their safety culture.

A close call is a situation or circumstance that had the potential for safety consequences, but did not result in an adverse safety event. Knowledge of a close call presents an opportunity to address unsafe work conditions and encourage a culture of safety in the workplace. It is estimated that the time to complete a close call report and participate in a brief confidential interview will be no than 60 minutes for a maximum total burden of 150 hours (150 reports * 60 minutes/60 = 150 hours). Reports are submitted when there is a qualifying event, *i.e.*, when a close call occurs within any office of the Authority.

II. Background

WMATA deployed the Close Call program in April 2013, and in May 2016 the program expanded to include bus employees. The Confidential Close Call Program is a Cooperative Agreement between BTS, WMATA management, the Amalgamated Transit Union (ATU) Local 689, the International Brotherhood of Teamsters (IBT) Local 922 and Office & Professional Employees International Union (OPEIU) Local 2. This program provides a confidential platform to facilitate the voluntary reporting of close call events without fear of discipline. Collecting data on the nation's transportation system is an important component of BTS' mission and responsibility to the transportation community as stated in its authorizing statute (49 U.S.C. 6302). BTS and WMATA/ATU, IBT Local 922 and OPEIU Local 2, share a common interest in promoting rail transit and bus safety using timely, accurate, and relevant data. WMATA/ATU, IBT Local 922 and OPEIU Local 2, is sponsoring the Confidential Close Call Program for Transit Rail and Bus System to improve transit rail and bus safety by studying the effectiveness of its own systems through the data and information collected from reported close call events.

Any situation or circumstance that has the potential for safety consequences, but did not result in an adverse safety event is defined as a close call. Knowledge about a close call presents an opportunity to address unsafe work conditions and practices, prevent accidents, contribute to policy making decisions and improve overall safety in the workplace.

BTS collects close call reports submitted by WMATA employees, conducts employee interviews, develop and maintain an analytical database containing reported data and other pertinent information, provides statistical analysis to WMATA, and protects the confidentiality of these data through its own statute (49 U.S.C. 6302) and CIPSEA. Only statistical and non-sensitive information will be made available through publications and reports.

Voluntary reporting of close calls to a confidential system provides a tool to identify and correct weaknesses within WMATA and prevents accidents. Close Call reporting fosters a voluntary, cooperative, non-punitive environment to communicate safety concerns for the greater good. Through the analysis of the data that is reported, WMATA receives information about factors that contribute to unsafe events, which becomes the catalyst to develop new training programs and identify root causes of adverse events. The database also provides researchers with valuable information regarding precursors to safety risks and contributes to research and development of intervention programs aimed at averting accidents and fatalities.

Employees involved in reporting a close call incident are asked to fill out a report and participate in a brief, confidential interview. Employees submit the report electronically to BTS. Participants will be asked to provide information such as: (1) name and contact information; (2) time and location of the event; (3) a short description of the event; (4) contributing factors to the close call; and (5) any other information that might be useful in determining a root cause for such events.

III. Request for Public Comment

BTS requests comments on any aspects of this information collection request, including: (1) the accuracy of the estimated burden of 150 hours detailed in section I; (2) ways to enhance the quality, usefulness, and clarity of the collected information; and (3) ways to minimize the collection burden without reducing the quality of

the information collected, including additional use of automated collection techniques or other forms of information technology.

Demetra V. Collia,

Office Director.

[FR Doc. 2023-01127 Filed 1-20-23; 8:45 am]

BILLING CODE 4910-HY-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently, the IRS is soliciting comments concerning proceeds of bonds used for reimbursement.

DATES: Written comments should be received on or before March 24, 2023 to be assured of consideration.

ADDRESSES: Direct all written comments to Andres Garcia, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or by email to pra.comments@irs.gov. Include 1545-1226 or T.D. 8394, Proceeds of Bonds Used for Reimbursement.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this collection should be directed to LaNita Van Dyke, at (202) 317-6009, at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet at LaNita.VanDyke@irs.gov.

SUPPLEMENTARY INFORMATION:

Title: Proceeds of Bonds Used for Reimbursement.

OMB Number: 1545-1226. Regulation Project Number: T.D. 8394.

Abstract: This regulation clarifies when the allocation of bond proceeds to reimburse expenditures previously made by an issuer of the bond is treated as an expenditure of the bond proceeds. The issuer must express a reasonable official intent, on or prior to the date of payment, to reimburse the expenditure

in order to assure that the reimbursement is not a device to evade requirements imposed by the Internal Revenue Code with respect to tax exempt bonds.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: State, local or tribal governments, and not-for-profit institutions.

Estimated Number of Respondents: 2,500.

Estimated Time per Respondent: 2 hours, 24 minutes.

Estimated Total Annual Burden Hours: 6,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 17, 2023.

Molly J. Stasko,

Senior Tax Analyst.

[FR Doc. 2023-01149 Filed 1-20-23; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY**Internal Revenue Service****Proposed Collection; Comment Request for Form 5227**

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning Form 5227, Split-Interest Trust Information Return.

DATES: Written comments should be received on or before March 24, 2023 to be assured of consideration.

ADDRESSES: Direct all written comments to Andres Garcia, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or by email to pra.comments@irs.gov. Include 1545-0196 or Form 5227, Split-Interest Trust Information Return.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this collection should be directed to LaNita Van Dyke, at (202)

317-6009, at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet at LaNita.VanDyke@irs.gov.

SUPPLEMENTARY INFORMATION:

Title: Split-Interest Trust Information Return.

OMB Number: 1545-0196.

Form Number: 5227.

Abstract: Form 5227 is used to report the financial activities of a split-interest trust described in Internal Revenue Code section 4947(a)(2), and to determine whether the trust is treated as a private foundation and is subject to the excise taxes under chapter 42 of the Code.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Responses: 199,900

Estimated Time per Respondent: 45 hr., 24 min.

Estimated Total Annual Burden Hours: 9,076,744.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 17, 2023.

Molly J. Stasko,

Senior Tax Analyst.

[FR Doc. 2023-01152 Filed 1-20-23; 8:45 am]

BILLING CODE 4830-01-P

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