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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–2022–1448; Airspace Docket No. 21–AWP–58]

RIN 2120–AA66

Amendment of Class E Airspace; Hanford Municipal Airport, CA

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

ACTION: Final rule.

SUMMARY: This action modifies the Class E airspace extending upward from 700 feet above the surface at Hanford Municipal Airport CA. It adds a radius to the Class E airspace, removes an extension to the east of the airport, and modifies the extensions to the southeast and northwest of the airport. These actions will support the safety and management of instrument flight rule (IFR) operations at the airport.

DATES: Effective 0901 UTC, June 15, 2023. The Director of the Federal Register approves this incorporation by reference under Title 1 CFR part 51, subject to the annual revision of FAA Order JO 7400.11, Airspace Designations and Reporting Points, and publication of conforming amendments.

ADDRESSES: FAA Order JO 7400.11G, 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: Keith Adams, Federal Aviation Administration, Western Service Center, Operations Support Group, 2200 S 216th Street, Des Moines, WA 98198; telephone (206) 231–2428.

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 modifies the Class E airspace at Hanford Municipal Airport, CA, to support IFR operations at the airport.

History

The FAA published a notice of proposed rulemaking (NPRM) in the **Federal Register** for FAA–2022–1448 (87 FR 77043; December 16, 2022) to modify the Class E airspace extending upward from 700 feet above the surface at Hanford Municipal Airport, CA. It proposed to add a 2.8-mile circular radius of the airport to properly contain circling maneuvers. This action also proposed to remove an airspace extension to the northeast of the airport as it is no longer needed due to the decommissioning of the Visalia very high frequency omnidirectional range/distance measuring equipment (VOR/DME) navigational aid (NAVAID) and its associated instrument approach procedure. Additionally, this action proposed a modification to the extensions southeast and northwest of the airport to more adequately contain arriving IFR operations below 1,500 feet above the surface on the Area Navigation (RNAV) Global Positioning System (GPS) Runway (RWY) 32 and RNAV (GPS)-B RWY 32 approaches and departing IFR operations until they reach 1,200 feet above the surface at the airport. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

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

The FAA is amending 14 CFR part 71 by modifying the Class E airspace extending upward from 700 feet above the surface at Hanford Municipal Airport, CA. A 2.8-mile radius of the airport is established to properly contain circling maneuvers at the airport. The extension to the northeast of the airport is removed due to the decommissioning of the VIS VOR NAVAID and its associated IFR arrival procedure. The extension to the southeast of the airport is realigned from the 152° bearing to the 142° bearing from the airport. It is narrowed to 2.4 miles either side of the 142° bearing from the airport and is also lengthened to 7 miles southeast of the airport. The extension to the northwest of the airport is realigned from the 332° bearing to the 345° bearing. It is narrowed to 2.4 miles either side of the 345° bearing from the airport and lengthened to 7 miles northwest of the airport.

The Class E5 airspace designation is 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 designation listed in this document will be published subsequently in FAA Order JO 7400.11.

FAA Order JO 7400.11 is published annually and becomes 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

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 5–6.5a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant the preparation of an environmental assessment.

List of Subjects in 14 CFR Part 71

Airspace, incorporation by reference, navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the FAA 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 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 part 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.

* * * * *

AWP CA E5 Hanford, CA [Amended]

Hanford Municipal Airport, CA
(Lat. 36°19′00″ N, long. 119°37′40″ W)

That airspace extending upward from 700 feet above the surface within a 2.8-mile radius of the airport, and within 2.4 miles each side of the 142° bearing from the airport extending from the 2.8-mile radius to 7 miles southeast of the airport, and within 2.4 miles each side of the 345° bearing from the airport extending from the 2.8-mile radius to 7 miles north of the airport.

Issued in Des Moines, Washington, on February 27, 2023.

B.G. Chew,

Group Manager, Operations Support Group, Western Service Center.

[FR Doc. 2023–04587 Filed 3–6–23; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2022–1453; Airspace Docket No. 21–AWP–57]

RIN 2120–AA66

Establishment of Class E Airspace; Mefford Field Airport, CA

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 Mefford Field Airport, Tulare, CA. The establishment of Class E airspace supports the safety of instrument flight rules (IFR) arrival, departure, and missed approach operations at the airport.

DATES: Effective 0901 UTC, June 15, 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: Keith Adams, Federal Aviation Administration, Western Service Center, Operations Support Group, 2200 S 216th Street, Des Moines, WA 98198; telephone (206) 231–2428.

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 at Mefford Field Airport, Tulare, CA, to support the safety and management of IFR operations at the airport.

History

The FAA published a notice of proposed rulemaking in the **Federal Register** for FAA–2022–1453 (87 FR 76593; December 15, 2022) to establish Class E airspace extending upward from 700 feet above the surface at Mefford Field Airport, Tulare, CA. This action supports IFR operations at the airport. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

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

The FAA is amending 14 CFR part 71 by establishing Class E airspace extending upward from 700 feet above the surface at Mefford Field Airport, Tulare, CA. The Class E airspace will be established extending upward from 700 feet above the surface within 1.8 miles each side of the 142° bearing from the airport, extending 6.4 miles southeast from the airport, and within 1.8 miles each side of the 322° bearing from the airport, extending 6.4 miles northwest of the airport. This airspace is designed to contain IFR departures to 1,200 feet above the surface and IFR arrivals descending below 1,500 feet above the surface. The establishment of Class E airspace supports the safety of IFR operations at the airport.

Class E5 airspace designations are published in paragraphs 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 designation listed in this document will be published subsequently in FAA Order JO 7400.11.

FAA Order JO 7400.11 is published annually and becomes 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

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 5–6.5a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant the preparation of an environmental assessment.

List 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 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 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.

* * * * *

AWP CA E5 Tulare, CA [New]

Mefford Field Airport, CA
(lat. 36°9′24″ N, long. 119°19′36″ W)

That airspace extending upward from 700 feet above the surface within 1.8 miles each side of the 142° bearing from the airport extending to 6.4 miles southeast of the airport, and within 1.8 miles each side of the 322° bearing from the airport extending to 6.4 miles northwest of the airport.

Issued in Des Moines, Washington, on February 27, 2023.

B.G. Chew,

Acting Group Manager, Operations Support Group, Western Service Center.

[FR Doc. 2023–04586 Filed 3–6–23; 8:45 am]

BILLING CODE 4910–13–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R08–OAR–2021–0005; FRL–8683–02–R8]

Air Plan Approval; North Dakota; Revisions to Permitting Rules; and Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: In accordance with the Clean Air Act (CAA), the Environmental Protection Agency (EPA) is taking final action to approve State Implementation Plan (SIP) revisions submitted by North Dakota on August 3, 2020. The revisions contain amendments to the State's Ambient Air Quality Standards, Permit to Construct, and Prevention of Significant Deterioration (PSD) regulations. In addition, we are correcting the citation to a revision to North Dakota Administrative Code (NDAC) section 33.1–15–20–04.4. In our proposal, we provided the incorrect citation to section 33.1–15–20–04.3.

DATES: This final rule is effective on April 6, 2023.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R08–OAR–2021–0005. All documents in the docket are listed on the *http://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through *http://www.regulations.gov,* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Kevin Leone, Air and Radiation Division, EPA, Region 8, Mailcode 8P–AR, 1595 Wynkoop Street, Denver, Colorado 80202–1129, telephone number: (303) 312–6227, email address: *leone.kevin@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document ''we,'' ''us,'' and ''our'' means the EPA.

I. Background

The EPA is taking final action to approve the SIP amendments to the North Dakota Administrative Code (NDAC), which North Dakota submitted to EPA on August 3, 2020. These amendments to the NDAC are found in Article 33.1–15 (Air Pollution Control) and include revisions to Chapter 33.1–15–01 (General Provisions), Chapter 33.1–15–02 (Ambient Air Quality Standards, Table 1), Chapter 33.1–15–03 (Restriction of Emission of Visible Air Contaminants), Chapter 33.1–15–14 (Designated Air Contaminant Sources, Permit to Construct, Minor Source Permit to Operate, Title V to Operate), Chapter 33.1–15–15 (Prevention of Significant Deterioration of Air Quality), Chapter 33.1–15–19 (Visibility Protection), and Chapter 33.1–15–20 (Control of Emissions from Oil and Gas Well Production Facilities). Revisions to Chapter 33.1–15–25 (Regional Haze Requirements) were acted on in a separate rulemaking.[1] North Dakota is also revising Chapter 2 Section 2.15 (Respecting Boards) located in North Dakota's EPA Approved Nonregulatory Provisions and Quasi-Regulatory Measures.

In addition to taking final action approving North Dakota's revisions, we are also correcting an error in citation we made in our proposal for the revision to section 33.1–15–10–04.4. In our **Federal Register** document 86 FR 41413, appearing on page 41415 in

[1] The EPA approved North Dakota's rule revisions to chapter 33.1–15–25 (regional haze) on June 8, 2021 (86 FR 30387).

section G, subchapter 2, second asterisk, section 33.1–15–20–04.3 should have read section 33.1–15–20–04.4. We consider this error to be a typographical error, which we believe did not have a deleterious effect on the public's ability to comment on the substance of the revision. This is supported by the fact that the revision description in our proposal with the incorrect citation matches the description of the revision in North Dakota's SIP submittal containing the correct citation to section 33.1–15.20–04.4 which was made available in our docket. In addition, we drew a comment on the provision with the commenter providing the correct citation to section 33.1–15–.20–04.4.

Our August 21, 2021, proposed rulemaking contains a detailed summary of the SIP revisions in question and explains the bases for our proposed approval.[2] We invited comment on all aspects of our proposal, and provided a 30-day comment period, which was extended and ended on October 4, 2021.[3]

II. Response to Comments

We received comments from the Center for Biological Diversity on October 4, 2021. The comments focused on the four revisions to chapter 33.1–15–20 titled ''Control of Emissions from Oil and Gas Well Production Facilities.'' [4] The four revisions will be discussed in more detail in the responses.

The summary of the comments and our responses are provided below. The full text received from the commenter is included in the docket associated with this action.

Comment: Minor sources have the potential to impact the National Ambient Air Quality Standards (NAAQS) and threaten public health. Emissions from the oil and gas industry include a number of pollutants that are linked to serious health effects. The Dakota Resource Council has documented oil and gas pollution's impacts on North Dakota's families. According to the ''North Dakota Oil and Gas Threat Map,'' the area of highest oil and gas also has the highest negative health impacts. This area includes environmental justice communities both on North Dakota state land and the Fort Berthold Reservation. Considering the adverse impacts already experienced by these communities, EPA must work with the State to meaningfully strengthen the SIP provisions, using science and available cost-effective measures to control the criteria and hazardous air pollutants to deliver environmental justice to the Fort Berthold and other impacted communities.

Response: As an agency, we strive to incorporate environmental justice considerations into our actions and decisions to the extent possible. As explained in more detail below, we do not expect negative environmental consequences, nor do we expect disproportionate human health or environmental effects on environmental justice communities because the revisions being proposed include both revisions that are administrative in nature and revisions that are not expected to result in an increase in emissions of air contaminants that could impact the environment.

Comment: The revisions proposed to section 33.1–15–20–04.3 are not administrative in nature. The State's proposed change to section 33.1–15–20–04.3 amends the pollutants covered by the rule from volatile organic compound gases to organic compound gases. This change is substantive. While there is a definition for volatile organic compounds, there is no definition for 'organic compound gases' and it is unclear what group of gases this phrase references.

Response: We do not agree with commenter's assessment that the two revisions to North Dakota's section 33.1–15–20–04.3 are substantive. North Dakota made two revisions to chapter 33.1–15–20–04.3. First, the term ''volatile'' was removed prior to ''organic compound gas(es) and vapor(s)'' from the provision so that it now reads, ''Any organic gases and vapors may be subject to controls specified in chapter 33.1–15–07.'' Chapter 33.1–15.07 addresses control of organic compounds emissions. Chapter 33.1–15–07 uses the term ''volatile organic compound'' but does not use the term ''volatile organic compound *vapor and gas* [emphasis added].'' Section 33.1–15–07–02 specifically addresses ''gases and vapors'' and in particular ''organic compound gases and vapors'' but does not use the term ''volatile organic compound gas(es) and vapor(s).'' Because North Dakota uses the terms ''volatile organic compound'' and ''organic compound gases and vapors'' in chapter 33.1–15–07 and not ''volatile organic compound gas(es) and vapor(s),'' it is reasonable to assume that the edits North Dakota proposed is to correct an error in the language of the regulation whereby North Dakota incorrectly referred to ''volatile organic compound gas and vapor'' when it meant ''organic compound gases and vapors'' so that chapter 33.1–15–07 aligns with section 33.1–15–20–4.3 which the provision references. Therefore, we characterized this change in our proposal as administrative since the edits to section 33.1–15–20–4.3 reflect a desire to align language between section 33.1–15–20–4.3 and chapter 33.1–15–07 for ''organic compound gases and vapors.''

The commenter is correct that the Air Pollution Control Regulations (Article 33.1–15) does not define what organic compound gases and vapors are, but the Air Pollution Control Regulations do control the emissions of organic compounds including organic compound gases and vapors as found in chapter 33.1–15–07. Without the proposed revision to chapter 33.1–15–20–4.3 by North Dakota, it is possible that it would not be clear to the public that organic compound gases and vapors under chapter 33.1–15–20–4.3 may be also subject to chapter 33.1–15–07 and in particular with section 33.1–15–07–02 of chapter 33.1–15–07 which specifically regulates organic compound gases and vapors. That is why EPA proposed approval under a rationale that this change was administrative in nature which clarified chapter 33.1–15–20.4.3 to align with its corollary chapter 33.1–15–07.

The second revision to chapter 33.1–15–20–4.3 is the pluralizing of gases and vapors by adding ''es'' and ''s'' to gas and vapor. Pluralizing a word is considered purely administrative in nature since the only impact is that we are changing gas and vapor from singular to plural which does not impact the meaning of the terms ''gas'' and ''vapor.''

Comment: We believe that the revisions proposed to section 33.1–15–20–04.4 are not administrative in nature. Section 33.1–15–20–4.4 requires routine inspections and maintenance of certain listed equipment ''used for gas containing hydrogen sulfide (H_2S).'' The proposed revision would apparently expand the rule to cover routine inspection and maintenance of equipment regardless of the type of pollutants emitted. This would mean the rule covers all pollutants emitted at a production facility, not just H_2S. This would be an improvement of air quality if the rule were enforceable, but we don't believe the rule is enforceable since there are no required recordkeeping and reporting requirements for this provision. In addition, the definition of production facility found in section 33.1–15–20–

[2] *See* 86 FR 41413.

[3] We published a correction to the proposed rule and extended the comment period due to an incorrect docket citation. See 86 FR 49500 (Sept. 3, 2021).

[4] Chapter 33.1–15–20 is also commonly referred to as the oil and gas registration rule.

01.2 is more expansive than the list of equipment covered by the current rule for routine inspection and maintenance. Expanding the coverage of a vague rule is not an administrative change.

Response: We agree with the commenter that the proposed change to section 33.1–15–20–04.4 is not administrative in nature. Previously section 33.1–15–20–04.4, provided that ''Routine inspections and maintenance of tanks, hatches, compressors, vent lines, pressure relief valves, packing elements and couplings must be conducted to minimize emissions from equipment used for gas containing hydrogen sulfide (H_2S) . . .'' North Dakota's revision to section 33.1–15–20–04.4 removes the phrase ''used for gas containing hydrogen sulfide (H_2S)'' and replaces it with ''production facility'' so that the provision now reads as follows: ''routine inspections and maintenance of tanks, hatches, compressors, vent lines, pressure relief valves, packing elements, and couplings must be conducted to minimize emissions from equipment *at a production facility.* Tank hatches must hold a positive working pressure or must be repaired or replaced.'' Chapter 33.1–15–20–01 provides the definition of ''production facility'' to include'' all equipment, wells, flow lines, separators, treaters, tanks, flares, gathering lines, and auxiliary nontransportation-related equipment used in the exploration, development, or subsequent production or handling of oil and gas from an oil or gas well or wells which are located on one or more contiguous or adjacent surface properties, and are under the control of the same person (or persons under common control).''

By changing to requiring routine inspections of equipment to minimize emissions at a production facility, North Dakota is also requiring routine inspections to minimize emissions of volatile organic compounds and carbon monoxide as well as hydrogen sulfide since those are the expected air contaminants from an oil and gas production facility. This revision strengthens this provision and does not weaken the SIP since it expands the equipment that are subject to this regulation. The commenter is also correct that the definition of production facility as spelled out in the definition section found in chapter 33.1–15–20–01–2.n is more expansive than the prior term ''equipment used for gas containing hydrogen sulfide'' in this section. Chapter 33.1–15–20–01–2.n defines ''production facility'' as ''all equipment, wells, flow lines, separators, treaters, tanks, flares, gathering lines and auxiliary nontransportation-related equipment used in exploration, development, or subsequent production or handling of oil and gas from an oil and gas well or wells which are located on one or more contiguous or adjacent surface properties, and are under the control of the same person (or persons under common control).'' By expanding the definition of equipment at oil and gas facilities that emit air contaminants, and not necessarily hydrogen sulfide, this expands the equipment that is subject to routine inspection to include oil storage tanks, control flares at storage tanks, casing head gas, generators, tank and heaters, and valves and flanges. Because the revision to section 33.1–15–20–04.4 expands the equipment subject to inspection and maintenance, we are expecting better running equipment and prevention of unplanned emissions of air contaminants. Thus, we believe the revision to section 33.1–15–20–4.4 is more stringent than the previous iteration.

As to the comment that this chapter is not enforceable because it does not have required recordkeeping and reporting requirements, the commenter is correct that section 33.1–15–20–4.3 does not contain recordkeeping and reporting requirements. Both the proposed revision and the previous version of section 33.1–15–20–4.3 do not address recordkeeping and reporting requirements. Recordkeeping and reporting requirements are provided in North Dakota's chapter 33.1–15–20–02, and North Dakota did not submit, and we are not acting on revisions to chapter 33.1–15–20–02.[5] Therefore, we cannot agree with commenters statement that chapter 33.1–15–20–4.3 is not enforceable because there is no required recordkeeping and reporting requirements since the recordkeeping and reporting requirements are found in chapter 33.1–15–20–02 and they have not been revised since their prior approval in 2019.

As to the commenter's comment about the enforceability of this requirement, enforcement of North Dakota's Air Pollution Control regulation including chapter 33.1–15–20 Control of Emissions from Oil and Gas Well Production Facilities are administered by chapter 33.1–15–01 General Provisions. Specifically, section 33.1–15–01–17 regulates enforcement of North Dakota's Air Pollution Regulations including chapter 33.1–15–20. For this rulemaking, North Dakota did not submit nor are we acting on North Dakota's section 33.1–15–01–17 addressing enforcement of North Dakota's Air Pollution Regulations.

Comment: Expanding coverage of section 33.1–15–20–4.2 to cover all air contaminants as opposed to just sulfur dioxide (SO_2) for flare stack height requirements is not a basis for approval as EPA suggests in its proposal. Neither EPA's nor the State's proposal discloses what other air contaminants are covered and what-if any-stack height rules apply to the expanded list of all air contaminants.

In addition, EPA's proposed approval of these revisions do not apply EPA's stack height requirements for new sources under New Source Review (NSR). In light of the broad applicability of the registration rule revisions that not only include oil and gas wells, EPA must ensure that the stack height requirements apply to the sources that are exempt from the NSR permit process, which EPA has not done.

We also think that the proposed rule revision expands the coverage of the rule to more pollutants and more emitting units and source of emissions which contradicts the permitting requirements to determine what constitutes the stationary source. The outcome is that the proposed rule allows the owner/operator of a unit covered by the rule to subdivide what should be aggregated into a major source into many smaller units and escape major source permitting.

Response: We do not agree with commenter's statement that expanding coverage for flare stack height requirements in section 33.1–15–20–4.2 to cover all air contaminants versus covering just SO_2 should not be a basis for approval. Generally, we consider expanding regulatory coverage to address all air contaminants to be more protective than the previous iteration of the requirement. In our case, North Dakota submitted revisions to section 33.1–15–20–4.2 (requirements for control of production facility emissions) replacing ''sulfur dioxide'' with ''air contaminants.'' Section 33.1–15–20–4.2 now reads ''each flare used for combusting gas at a production facility must be equipped and operated with an automatic igniter or a continuous burning pilot which must be maintained and operated in good working order. This is required even if the flare is used for emergency purposes only. A continuous burning pilot is required if this department determines that an automatic ignition system is ineffective due to production characteristics. The flare stack must be of sufficient height to allow for adequate dispersion of air contaminants as necessary to meet the requirements of this article.''

[5] We approved North Dakota's chapter 33.1–15–20.02 recordkeeping and reporting requirements in 2019. See 84 FR 1610 (Feb. 5, 2019)

The commenter is correct that section 33.1–15–20–04.2 does not spell out what air contaminants are covered under this section but ''air contaminants'' are defined in the Air Pollution Control general provisions definitions section found in section 33.1–15–01–4.2. The general provisions definitions in section 33.1–15–01 are applicable to all of chapter 33.1–15 including section 33.1–15–01–4.2. Under the NDAC section 33.1–15–01–4.2, '''air contaminant' is defined as ''any solid, liquid, gas, or odorous substance or any combination thereof emitted to the ambient air.''

As to the commenter's concerns that the revision doesn't provide clarity on what stack height rules apply to the expanded list of air contaminants, we do not believe that North Dakota's replacement of ''hydrogen sulfide'' with ''air contaminants'' for flare stack height requirements impacts the clarity of the proposed revision to section 33.1–15–20–4.2. The original language reads ''flare stack must be of sufficient height to allow for adequate dispersion of hydrogen sulfide as necessary to meet the requirement of this article.'' The revised language now reads ''flare stack must be of sufficient height to allow for adequate dispersion of air contaminants as necessary to meet the requirements of this article.'' The rule revision is not regulating additional criteria pollutants because there is no change in the pollutants being emitted. The rule revision is rather clarifying that the rule applies to all pollutants, not just hydrogen sulfide. Thus, there are no new emissions sources to be evaluated and the flare stack height is not impacted from the revision to section 33.1–15–20–4.2.

The commenter is correct that this revision relating to flare stacks does not apply to EPA's stack height requirements for new sources under NSR. This is not an issue because stack height requirements for new sources under NSR are governed by chapter 33–15–18. In addition, stack height requirements for new sources under NSR specifically state that stack height requirements do not apply to flare stacks. This is true both for the federal NSR program and North Dakota's federally approved NSR program.[6] The commenter appears to confuse the stack height requirements under NSR and flare stacks.

We do not agree with the commenter that the rule revision to section 33.1–15–20–4.2 expanding the coverage of the stack height requirements to all pollutants under the flare rule contradicts permitting requirements to determine what constitutes a stationary source or that the proposed rule allows the owner/operator of a unit covered by the rule to subdivide what should be aggregated into a major source into many smaller units and escape major source permitting. The commenter is correct that the revision to section 33.1–15–20–4.2 expanding to all pollutants will mean that more emitting units and source of emissions will be subject to section 33.1–15–20–4.2. However, it is not clear how the commenter connects being subject to section 33.1–15–20–4.2 results in North Dakota's stationary source requirements being circumvented or escaping major source requirements. North Dakota's stationary source and permitting requirements are governed by chapter 33.1–15–14 titled ''Designated Air Sources, Permit to Construct, Minor Source Permit to Operate, and Title V to operate.'' Specifically, section 33.1–15–14–06.1.bb defines ''stationary sources'' for permitting purposes as ''any building, structure, facility, or installation that emits or may emit any regulated air contaminant or any contaminant listed under section 112(b) of the federal Clean Air Act.'' In addition, section 33.1–15–14–06.1.q defines ''major source'' for permitting purposes as the same definition of ''major source'' under title V of the CAA. North Dakota did not submit revisions to section 33.1–15–14–06, nor did EPA propose to act on section 33.1–15–14–06 in this action. We fail to see how the revision to section 33.1–15–20–4.2, which requires a flare stack to be of sufficient height to allow for adequate dispersion of all air contaminants versus just flare stacks that emit hydrogen sulfide, revises the permitting requirements for stationary sources and major source permitting found in Chapter 33.1–15–14.

Comment: EPA's proposed approval of the State's revisions to chapter 33.1–15–20, also known as the oil and registration rule[7] did not include a CAA section 110(l) demonstration. Expanding control measures to cover additional equipment and all pollutants triggers section 110(l) review because the registration rule is a stationary source per section 110(i). Section 110(i) requires that SIP requirements for stationary sources must undergo the SIP revision process, which in turn requires EPA to determine that the requirement in section 110(l) is met, including non-interference with attainment and maintenance of the NAAQS.

Response: In accordance with CAA Section 110(l), EPA cannot approve a SIP revision if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the CAA. CAA 110(l) does not require a state to conduct a 110(l) analysis for every action; rather, CAA 110(l) requires that the Administer shall not approve a revision to a plan if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the Act. The EPA evaluated North Dakota's submittal containing the four revisions to chapter 33.1–15–20 (one revision to section 33.1–15–20–4.2, two revisions to section 33.1–15–20–4.3, and one revision to section 33.15–20–4.4) on which we received comments for interference with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the CAA.

North Dakota proposed a revision to section 33.1–15–20–4.2 which North Dakota expanded flare stack height requirements to include ''adequate dispersion of air contaminants as necessary to meet the requirements of this article.'' Section 33.1–15–20–4.2 was formerly limited to stack height for adequate dispersion of hydrogen sulfide. The rule revision is not regulating additional criteria pollutants because there is no change in the pollutants being emitted, rather, it is clarifying that the rule applies to all pollutants, not just hydrogen sulfide. Thus, there are no new emissions sources to be evaluated, and the commenter has not identified a specific emissions increase that would require a 110(l) evaluation. The rule continues to specify that the stack must be designed with sufficient height to allow for adequate dispersion of all air contaminants. Thus, we do not believe that the revision to section 33.1–15–20–4.2 will interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the CAA.

North Dakota proposed two revisions to section 33.1–15–20–4.3. First, North Dakota removed the term ''volatile'' when referencing ''organic compound gas and vapor.'' North Dakota removed the term ''volatile'' to align with the language in chapter 33.1–15–07 since section 33.1–15–20–4.3 specifically references chapter 33.1–15–07. Section 33.1–15–20–4.3 states that ''any organic compound gases and vapors may be subject to controls as specified in chapter 33.1–15–07. Secondly, North

[6] See 40 CFR 51.118 and NDAC section 33.1–15–18 for the federal requirements for stack height (not including flare stacks) and North Dakota's corollary provision.

Dakota pluralized gas''es'' and vapor''s'' in section 33.1–15–20–4.3. As explained in more detail in our previous response, we consider the deletion of ''volatile'' aligning the two corollary provisions of section 33.1–15–20–4.3 and chapter 33.1–15–07 as well as the pluralization of gas and vapor to be administrative in nature and thus, we do not anticipate impacts to applicable requirements concerning attainment and reasonable further progress, or any other applicable requirement under the CAA.

North Dakota also proposed a revision to chapter 33.1–15–20–4.4 in which the term ''used for gas containing hydrogen sulfide'' was replaced with ''at a production facility'' for routine inspections and maintenance of tanks, hatches, compressors, vent lines, pressure relief valves, packing elements and couplings . . . to minimize emissions from equipment at a production facility. We do not expect to see an increase in emissions of any pollutant or interfere with attainment and reasonable further progress requirements because increased routine inspection and maintenance increases the opportunity to identify and fix and/or prevent fugitive emissions and does not add to the emissions. It is strictly part of keeping equipment in working order in order for a facility to comply with CAA requirements. Thus, we do not believe that the revisions to section 33.1–15–20–4.4 will interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the CAA.

In addition to the sections revised by North Dakota indicating no interference with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the CAA, all counties in North Dakota are designated as attainment for all criteria pollutants under the CAA. The rule revision is administrative in that it addresses permitting for potential new sources in the future. The rule revision itself does not approve any increases in actual emissions, and thus there are no specific increases in emissions to be addressed for interstate transport. Moreover, this rule does not affect the already existing legally and practicably enforceable requirements that facilities are already routinely achieving through the installation and operation of control equipment for health, safety and market purposes. This rule also does not exempt these facilities from other potentially applicable regulatory or permitting requirements. Because of these factors, EPA expects the revisions to North Dakota's chapter 33.1–15–20 will not interfere with any applicable CAA requirement, including attainment.

Comment: EPA's proposed approval of North Dakota's revisions to chapter 33.1–15–20 do not comply with 40 CFR 51.160(f). 40 CFR 51.160(f) requires that a state SIP must discuss the air quality data and the dispersion or other air quality modeling used to review new sources and modification pursuant to the requirements in 40 CFR 51.160–51.166. 40 CFR 51.160(f) applies to all sources covered by the NSR program, including the oil and gas wells/facilities subject to the revisions to North Dakota's registration rule. Contrary to EPA's regulation, the State's registration rule SIP amendments did not discuss what air quality data and dispersion or other modeling data the State used and relied on in developing the revisions. We included Tier 3 NO_2 modeling at the SandRidge Exploration and Production LLC's Bighorn Pad facility showed concentrations over six times the one-hour NO_2 NAAQS. Furthermore, the registration rule does not contain any provisions for the State to consider air quality data and the dispersion or other air quality modeling information in implementing the registration rule.

Response: We do not agree with the commenter that we are not meeting the requirements of 40 CFR 51.160(f) for air data and the dispersion or other air quality modeling used to review new sources and modification pursuant to the requirements in 40 CFR 51.160–51.166. 40. 40 CFR 51.160–51.166 addresses the requirements for review of new sources and modifications. Specifically, 40 CFR 51.160 provides that a state must submit a plan that contains legally enforceable procedures to enable the state to determine whether the construction or modification of a facility will result interference with attainment or maintenance of a national standard. In addition, 40 CFR 51.160 provides that the state must have procedures for the submission of the owner or operator of the facility to be constructed or modified including the requirement (found in 40 CFR 51.160(f)), as commenter stated, that the state SIP must discuss the type of air quality data and modeling required in the state permit application procedures for construction or modification of a source.

North Dakota's plan for the review of new sources and modifications is found in chapter 33.1–15–14. Specifically, North Dakota's section 33.1–15–14–02 spells out the State's requirements for permit to construct and alterations to sources. Section 33.1–15–14–02 was approved in a prior action by EPA.[8] In this rulemaking, we are finalizing approval of North Dakota's proposed revision to section 33.1–15–14–02.4a in which North Dakota incorporated by reference the PSD modeling guidance requirements found in 40 CFR part 51, appendix W (Guideline on Air Quality Models). This aligns with the requirements set out in 40 CFR 51.160(f)(1) of the air quality modeling requirement for new sources and modifications. In addition, the existing section 33.1–15–14–02.4b aligns with 40 CFR 51.160(f)(2). Thus, the requirements of 40 CFR 51.160(f) are being met by North Dakota's section 33.1–15–14–02.

The commenter confuses the requirement of 40 CFR 51.160(f) to require each SIP revision to contain air quality data and modeling when in fact 40 CFR 51.160(f) requires a state to have procedures in place discussing the type of air quality data and modeling required in the state permit application procedures for construction or modification of a source which North Dakota does in section 33.1–15–14.

Comment: There is no demonstration that the revisions to North Dakota's chapter 33.1–15–20 are protective of the PSD increments. Under 40 CFR 51.166(a)(1), a state's SIP must contain emission limitations and such other measures as may be necessary to prevent significant deterioration of air quality. If a SIP revision would result in increased air quality deterioration over any baseline concentration, the plan revision should include a demonstration that it will not cause or contribute to a violation of the applicable increments. The State's SIP submittal expands the pollutants to include SO_2, NO_2, and PM, however, there is no demonstration of the effectiveness of the controls. Lacking these details and the required elements for enforceability, it is reasonable to assume that emissions from the oil and gas wells/facilities that are registered under the rule will increase air quality deterioration over the baseline concentration. Therefore, the SIP revision is required to include a demonstration that it will not cause or contribute to a violation of the applicable increments. The State's SIP submittal did not include this.

Response: We do not agree with the commenter that it is reasonable to assume the four revisions to North Dakota's chapter 33.1–15–20 will increase air quality deterioration over the baseline concentration. We discuss in detail in our response to the 110(l) demonstration comment that we do not

[8] See 85 FR 38079 (Jun. 25, 2020).

expect that the revisions to chapter 33.1–15–20 will result in an increase in emissions and thus does not trigger a demonstration that revisions will not cause or contribute to a violation of the applicable increment as spelled out in 40 CFR 51.166(a)(2).[9] Thus, we do not need to demonstrate the effectiveness of controls for the revisions to section 33.1–15–20–4.2, section 33.1–15–20–4.3, and section 33.1–15–20–4.4.

The commenter also points to the perceived lack of enforceability of chapter 33.1–15–20. In our previous response to an enforceability comment, we pointed to chapter 33–15–01–17 which provides the enforcement provisions for Article 33.1–15 including chapter 33.1–15–20. Chapter 33–15–01–17 are not impacted by North Dakota's revisions to chapter 33.1–15–20. The enforcement of those revisions remains under section 33.1–15–01–17.

Comment: North Dakota's proposed revisions are not practically enforceable. The requirements for enforceability of a minor NSR program is found at 40 CFR 51.160 which requires that state SIPs include the authority to prevent the construction of a facility or modification that will cause a violation of applicable portions of the control strategy or interfere with attainment or maintenance of a NAAQS. The expanded coverage of the registration rule provisions, which are integrated into the registration rule and rely on self-registration by owners/operator, lack authority for the State to prevent construction or modification. North Dakota's SIP amendments lack a technically accurate limitation and also lacks a time period for the limitation. There are no methods specified in the SIP amendments for the owners and operators to determine compliance and no requirement to keep records. The rule does not specify any consequences for enforcement. In addition, the SIP revisions and SIP submittal lacks provisions that demonstrate how the state complies with these requirements. The SIP amendments leave it entirely up to the owner/operator of the oil and gas well/facility to decide whether, when and how to conduct an inspection. The amendments lack clarity on how swiftly maintenance must be performed, whether the root cause of maintenance must be determined and identification and implementation of measures to reduce maintenance. Furthermore, the inspections/maintenance work practice requirement is only conducted to minimize emissions. Given the nature of fugitive emissions from oil and gas operations, the rule should require more than just minimizing emissions. There should be ongoing requirements for inspection and repair. Additionally, there are no requirements that the owners/operators make records of the testing, inspections, and retain them. This is contrary to the requirements in 40 CFR 51.211 which requires legally enforceable procedures for requiring owners or operators of stationary source to maintain records and periodically report to the State. The rule revisions lack information on the nature and amount of emissions from the stationary sources as well as other information as may be necessary to enable the State to determine whether the sources are in compliance with applicable portions of the control strategy. The rule revisions lack provisions for calculating compliance on a 12-month rolling average and against the applicable short-term NAAQS limits. The public has no means to know what is going on regarding implementation of this rule and thus is barred from use of the CAA's citizen suits provisions. The revisions to the rule also lack provisions for the State to request additional information about the operations. The revisions to the rule also lack provisions that provide that oil and gas wells/facilities with emissions that exceed the major source emissions threshold constitute violations of permitting and SIP requirements. Lacking all these provisions means there is no way to determine compliance and ensure that the NAAQS and other requirements of the CAA are protected.

Response: The commenter confuses the chapter 33–15–20 revisions (oil and gas registration requirements) with other provisions of the NSR program. Chapter 33–15–20 is silent as to compliance, recordkeeping, and enforcement since the provisions that address all facilities including oil and gas facilities is found in North Dakota's federally approved NSR program. As stated previously, North Dakota's overall NSR program including compliance is codified in Chapters 33–15–14 and 33–15–15 and are modeled after the federal NSR program found in 40 CFR 51.160–51.166. Recordkeeping is codified in North Dakota's chapter 33.1–15–20.02. Enforcement requirements that the revisions are subject to are codified in 33–15–01–17. Compliance, recordkeeping, and enforcement requirements that are applicable to section 33.1–15–20 are not being proposed for revision.[10] Therefore, these comments on compliance, recordkeeping, and enforcement are outside the scope of the revisions we are acting on in this rulemaking.

Comment: North Dakota's revisions to chapter 33.1–15–20 allow minor sources to avoid the requirements of 40 CFR 51.160(d). 40 CFR 51.160(d) requires a SIP to include procedures that if an owner or operator receives approval to construct or modify a source, the owner or operator must still comply with applicable portions of the control strategy. The revisions to the chapter 33.1–15–20 lack language that requires that an owner or operator to comply with the applicable portions of the existing SIP control strategies.

Response: We do not agree with commenter that the revisions to chapter 33.1–15–20 allow minor sources to avoid the requirements of 40 CFR 51.160(d). 40 CFR 51.160(d) requires the state program for review of new sources and modifications include procedures that approval of any construction or modification must not affect the responsibility to the owner or operator with the applicable portions of the control strategy. North Dakota adopted the provisions of 40 CFR 51.160(d) within NDAC section 33.1–15–14–02.10.a. Section 33.1–15–14–02.10.a states that ''the issuance of a permit to construct for any source does not affect the responsibility of an owner or operator to comply with applicable portions of a control strategy affecting the source.'' We approved chapter 33.1–15–14–02 on June 25, 2020.[11] Chapter 33.1–15–20 does not contain provisions of 40 CFR 51.160(d) either before or after North Dakota's revisions to this chapter since it is provided in chapter 33.1–15–14–02 and chapter 33.1–15–14–02 is applicable to all facilities including oil and gas facilities.

Comment: The SIP revisions do not comply with the regional haze requirements. EPA's regional haze

[9] Commenter cites 40 CFR 51.166(a)(1) which addresses the original submitted PSD SIP requirements. 40 CFR 51.166(a)(2) addresses requirements for revisions to a PSD SIP.

[10] While we proposed approval of four revisions to chapter 33.1–15–15 in this rulemaking, the revisions did not modify and compliance requirements. The proposed revisions: (1) Updated the incorporation by reference of federal PSD requirements; (2) expanded administrator to include ''or the administrator's authorized representative;''(3) added the requirement that when the state goes out to comment under this chapter that the state must also provide notice on the department's website; and (4) adds language that draft permit to construct are also required to be published during the public comment period for a permit. The proposed changes to chapter 33.1–15–15 did not receive comment. In addition, we proposed no changes to chapter 33–15–14. See our proposal for a more detailed explanation of the North Dakota revisions that were proposed for approval, and we are now finalizing approval at 86 FR 41413 (Aug. 2, 2021).

[11] See 85 FR 38079.

program requires states to design and implement programs to curb haze-causing emissions within their state. Emissions from the oil and gas wells and associated equipment impact visibility. The CAA does not provide an off-ramp from the reasonable progress four-factor analysis for sources that would rely on the proposed amendments to North Dakota's registration program. EPA's proposed action to approve the changes to North Dakota registration regulations did not take into consideration all requirements of the CAA, including the long-term strategy for regional haze. EPA must not make decisions in isolation, set aside distinct requirements or delay their implementation. North Dakota's proposed SIP amendments should not be approved by EPA as they would replace the State's responsibility under the CAA to conduct the required reasonable progress four factor analysis for the oil and gas sources.

Response: This comment addresses provisions that were not affected by the revisions approved in this action and is beyond the scope of this rulemaking. This rulemaking does not address revisions to North Dakota's regional haze requirements. Our proposed rulemaking explicitly stated that the regional haze requirements had been addressed in a prior rulemaking. In that prior rulemaking, the EPA approved North Dakota's rule revisions to chapter 33.1–15–25 (regional haze) on June 8, 2021 (86 FR 30387). The commenter does not demonstrate that the changes approved in this action will allow oil and gas sources to increase emissions to a degree that influences the effectiveness of North Dakota's regional haze regulations.

Comment: North Dakota's submittal lacked information required for EPA to process the SIP. Specifically, North Dakota's SIP submittal lacked the following technical support required by appendix V of 40 CFR part 51: (1) identification of all regulated pollutants affected by the revisions; (2) identification of the locations of affected sources including the EPA attainment/nonattainment designations of the locations and the status of the attainment plan for the affected areas; (3) quantification of the changes in plan allowable emissions from the affected sources; estimates of changes in current actual emissions from affected sources; (4) state's demonstration that the NAAQS, PSD increments, and visibility, are protected if the plan revisions are approved and implemented; (5) modeling information to support the proposed revision; (6) evidence that the plan contains emission limitations, work practice standards and recordkeeping/reporting requirements, where necessary, to ensure emission levels; and (7) compliance/enforcement strategies, including how compliance will be determined in practice. With the missing required technical support, it was inappropriate for EPA to proceed with evaluating an incomplete SIP submission and propose approval.

Response: We disagree with the comment that the submittal lacked information required for EPA to process the SIP under appendix V of 40 CFR part 51. As explained in our prior responses, the revisions consist of those that are administrative in nature as well as revisions that do not lead to an increase in emissions. Thus, the additional technical documentation related to an increase in emissions that the commenter is seeking is not required.

CAA section 110(k) provides a two-step process for EPA's review of SIP submittals. First, within six months of receiving a SIP submission, EPA must make a threshold ''completeness determination'' to determine whether the SIP contains certain ''minimum criteria'' designated by EPA as ''the information necessary to . . . determine whether the plan submission complies with the provisions of the CAA.'' [12] These minimum criteria are listed in 40 CFR part 51, appendix V.[13] There is no requirement in the CAA or EPA's regulations that EPA document its completeness review prior to proposing to approve a SIP revision. To the contrary, if EPA fails to make the completeness determination within six months, the SIP submission is deemed complete by operation of law.[14] Here, EPA received North Dakota's SIP submittal on July 28, 2020. EPA did not make a formal completeness determination within six months; thus, the SIP submittal was deemed complete by operation of law and constitutes an official submission.[15] North Dakota's authority to adopt the SIP is addressed in the Opinion issued by the North Dakota Office of Attorney General and submitted with the SIP revision.[16]

In the second step of the two-step process, EPA evaluates SIP submittals for compliance with substantive requirements.[17] Here, the relevant provisions [18] are section 33.1–15–20–4.2 (which expanded the definition of flare stack height to air contaminants when it was previously limited to hydrogen sulfide), section 33.1–15–20–4.3 (which edited the provision to match language in chapter 33.1–15–07 which the section refers to by removing the term ''volatile'' from the term ''organic compound gas(es) and vapor(s)), section 33.1–15–20–4.3 pluralized the terms ''vapor'' and ''gas'' to reference both volatile and non-volatile gases, and section 33.1–15–20–4.4 (which expanded inspections and routine maintenance to minimize all emissions from oil and gas equipment). EPA explained in the proposed rule and in our responses above how North Dakota's SIP revision complies with these substantive requirements of the CAA including how the enforceability of the chapter 33.1–15–20 has not been impacted much less weakened by North Dakota's four revisions to chapter 33.1–15–20. Thus, the commenters' assertions that North Dakota's SIP revision to chapter 33.1–15–20 was inadequate because it lacked appendix V criteria and that EPA's proposal was inadequate because it lacked an appendix V completeness determination are without merit.

Comment: Executive Order 12898 requires federal agencies to achieve environmental justice through identification and addressing disproportionate high and adverse human health or environmental effects of its programs. Executive Order 14008 addresses climate change while implementing environmental justice. Contrary to the requirements of Executive Order 12898 and 14008, EPA's proposal fails to integrate the Executive Orders 12898 and 14008. EPA must not approve SIP amendments that lack clarity and enforceability, fail to meet the requirements of the CAA and EPA's regulations, and relax protections for the impacted environmental justice communities.

[12] 42 U.S.C. 7410(k)(1)(A), (B).

[13] 40 CFR part 51, appendix V.

[14] 42 U.S.C. 7410(k)(1)(C); 40 CFR part 51, appendix V, § 1.2.

[15] 40 CFR part 51, appendix V, § 1.2 (''A determination of completeness under this paragraph means that the submission is an official submission for purposes of § 51.103.'')

[16] Letter dated July 28, 2020, from Doug Burgum, Governor, North Dakota, to Gregory Sopkin, Regional Administrator, EPA Region 8, Subject: Revisions to North Dakota Regional Haze SIP for control of air pollution; North Dakota, Final Revisions to Implementation Plan for Control of Air Pollution, Amendment No. 2 to North Dakota State Implementation Plan First Planning Period for Regional Haze (July 2020) (Amendment No. 2) at 121.

[17] See *NRDC* v. *Browner,* 57 F.3d 1122, 1123 (D.C. Cir. 1995).

[18] We drew adverse comments on chapter 33.1–15–20. Control of Emissions from oil and gas well production facilities and are limiting are response to that provision. We did review all the submitted rule revisions by North Dakota and found that they meet the requirements of CAA 110(k). Since we did not receive adverse comments on these other revisions, we are not speaking in detail about these other revisions in our responses.

Response: This action is finalizing approval of North Dakota's revisions to the State's Air Pollution Control regulations. In particular, we drew comments on the approvability of revisions to chapter 33.1–15–20 in which North Dakota proposed four revisions. As explained in more detail in the previous responses, two of the revisions expanded the coverage of what is regulated under chapter 33.1–15–20 [19] and two revisions were administrative in nature.[20] Our previous responses also address how the clarity and enforceability of the regulations have not been impacted by the revisions and how North Dakota's revisions to chapter 33.1–15–20 meet the requirements of the CAA. We do not agree that the revisions which expand coverage to all air contaminants for flare stack height, routine inspection and maintenance of oil and gas facility equipment, as well as revisions the clarify language to align with its referring chapter relax protections for impacted environmental justice communities. In fact, we believe it will have the opposite effect. Executive Order 12898 and Executive Order 14008 does direct the agency to identify and address environmental justice and the disproportionate impacts on impacted communities in federal actions. However, the rule being approved in this action does not weaken any part of the existing oil and gas registration program and therefore is not expected to adversely impact communities with environmental justice concerns.

III. Final Action

As outlined in our proposed rulemaking, the EPA is taking final action to approve the addition of new and revised rules to Article 33.1–15 (Air Pollution Control), as submitted on August 3, 2020.

Specifically, we are taking final action to approve the following revisions: Revisions to Chapter 33.1–15–01 (General Provisions)—section 33.1–15–01–01; section 33.1–15–01–01–04; section 33.1–15–01–01–05 Revisions to Chapter 33.1–15–02 (Ambient Air Quality Standards)—, Table 1; Revisions to Chapter 33.1–15–03 (Restriction of Emission of Visible Air Contaminants); Revisions to Chapter 33.1–15–14 (Designation of Air Contaminant Sources; Permit to Construct, Title V Permit to Operate)—section 33.1–15–14–1.1; section 33.1–15–14–02; Revisions to Chapter 33.1–15–15 (Prevention of Significant Deterioration of Air Quality)—section 33.1–15–15–1.2; Revisions to Chapter 33.1–15–19 (Visibility Protection)—section 33.1–15–19–1.1; section 33.1–15–19–1.2; Revisions to Chapter 33.1–15–20 (Control of Emissions from Oil and Gas Well Production Facilities)—section 33.1–15–20–4.2; section 33.1–15–20–4.3; section 33.1–15–20–4.4; Revisions to Section 2.15 (Respecting Boards).

In addition to taking final action approving North Dakota's revisions, we are also correcting an error in citation we made in our proposal for the revision to section 33.1–15–10–04.4. In FR document 86 FR 41413, appearing on page 41415 in section G, subchapter 2, second asterisk, section 33.1–15–20–04.3 should read section 33.1–15–20–04.4.

IV. Incorporation by Reference

In this document, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of certain amendments to the NDAC, as listed in section III. Final Action of this preamble, which regulate the State's Ambient Air Quality Standards, Permit to Construct, and PSD. The EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and at the EPA Region 8 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by the EPA for inclusion in the SIP, have been incorporated by reference by the EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of the EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.[21]

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. The rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must

[19] Section 33.1–15–20–4.2 expanded the definition of flare stack height to air contaminants when it was previously limited to hydrogen sulfide. Section 33.1–15–20–4.4 expanded routine inspections and maintenance of oil and gas equipment to include minimization of all air contaminants at a production facility and not just hydrogen sulfide.

[20] Section 33.1–15–20–4.3 removed the term ''volatile'' from the term ''organic compound vapor and gas(es)'' so that it aligned with the referring terms in chapter 33.1–15–07. Section 33.1–15–20–4.3 also pluralized the terms ''vapor'' and ''gas'' to reference both volatile and non-volatile gases.

[21] 62 FR 27968 (May 22, 1997).

submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 8, 2023. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: February 28, 2023.

KC Becker,

Regional Administrator, Region 8.

For the reasons set forth in the preamble words of issuance 40 CFR part 52 is amended to read as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart JJ—North Dakota

■ 2. In § 52.1820:

■ a. In the table in paragraph (c), revise the entries ''33.1–15–01–01'', ''33.1–15–01–04'', ''33.1–15–01–05'', ''Table 1'', ''33.1–15–14–01.1'', ''33.1–15–14–02'', ''33.1–15–15–01.2'', ''33.1–15–19–01'', and ''33.1–15–20–04''.

■ b. In the table in paragraph (e), revise the entry ''Section 2.15''.

The revisions read as follows:

§ 52.1820 Identification of plan.

* * * * *

(c) * * *

Rule No.	Rule title	State effective date	EPA effective date	Final rule citation/date	Comments
*	* *	*	*	*	*
33.1–15–01–01	Purpose	7/1/2020	4/6/2023	[insert **Federal Register** citation], 3/7/2023.	
*	* *	*	*	*	*
33.1–15–01–04	Definitions	7/1/2020	4/6/2023	[insert **Federal Register** citation], 3/7/2023.	
33.1–15–01–05	Abbreviations	7/1/2020	4/6/2023	[insert **Federal Register** citation], 3/7/2023.	
*	* *	*	*	*	*
Table 1	Ambient Air Quality Standards.	7/1/2020	4/6/2023	[insert **Federal Register** citation], 3/7/2023.	
*	* *	*	*	*	*
33.1–15–14–01.1	Definitions	7/1/2020	4/6/2023	[insert **Federal Register** citation], 3/7/2023.	
33.1–15–14–02	Permit to Construct	7/1/2020	4/6/2023	[insert **Federal Register** citation], 3/7/2023.	
*	* *	*	*	*	*
33.1–15–15–01.2	Scope	7/1/2020	4/6/2023	[insert **Federal Register** citation], 3/7/2023.	
*	* *	*	*	*	*
33.1–15–19–01	General Provisions	7/1/2020	4/6/2023	[insert **Federal Register** citation], 3/7/2023.	
*	* *	*	*	*	*
33.1–15–20–04	Requirements for control of production facility emissions.	7/1/2020	4/6/2023	[insert **Federal Register** citation], 3/7/2023.	
*	* *	*	*	*	*

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(e) * * *

Rule No.	Rule title	State effective date	EPA effective date	Final rule citation/date	Comments
*	*	*	*	*	*
Chapter 2. Legal Authority					
*	*	*	*	*	*
Section 2.15	Respecting Boards	7/1/2020	4/6/2023	[Insert **Federal Register** citation], 3/7/2023.	
*	*	*	*	*	*

[FR Doc. 2023–04427 Filed 3–6–23; 8:45 am]

BILLING CODE 6560–50–P

GENERAL SERVICES ADMINISTRATION

41 CFR Part 102–73

[FMR Case 2021–102–1; Docket No. GSA–FMR–2021–0020; Sequence No. 1]

RIN 3090–AK42

Federal Management Regulation; Real Estate Acquisition

AGENCY: Office of Government-wide Policy (OGP), General Services Administration (GSA).

ACTION: Final rule.

SUMMARY: GSA is finalizing an amendment to the Federal Management Regulation (FMR) part regarding real property acquisition to clarify the policies for entering into lease agreements for high-security space in accordance with the Secure Federal Leases from Espionage And Suspicious Entanglements Act, also referred to as the Secure Federal LEASEs Act.

DATES: *Effective:* April 6, 2023.

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact Mr. Chris Coneeney, Director, Real Property Policy Division, Office of Government-wide Policy, at 202–208–2956 or *chris.coneeney@gsa.gov*. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202–501–4755 or *GSARegSec@gsa.gov*. Please cite FMR Case 2021–102–1.

SUPPLEMENTARY INFORMATION:

I. Background

GSA published a proposed rule at 86 FR 71604 on December 17, 2021, to implement section [4] of the Secure Federal Leases from Espionage And Suspicious Entanglements Act, also referred to as the Secure Federal LEASEs Act, Public Law 116–276, 134 Stat. 3362 (2020) (the ''Act''), which requires the disclosure of ownership information to Federal lessees leasing high-security space to enable the lessee to mitigate potential national security risks. The Act was signed into law on December 31, 2020 (available at *https://www.congress.gov/116/plaws/publ276/PLAW-116publ276.pdf*). The Act imposes disclosure requirements regarding the foreign ownership and control, particularly ''immediate owner,'' ''highest level owner'' and ''beneficial ownership,'' of prospective lessors of ''high-security leased space'' (*i.e.,* property leased to the Federal Government having a security level of III or higher). GSA implemented section 3 and section 5 of the Act through the interim rule General Services Administration Acquisition Regulation (GSAR) Case 2021–G527 (86 FR 34966) (available at *https://www.federalregister.gov/documents/2021/07/01/2021-14161/general-services-administration-acquisition-regulation-immediate-and-highest-level-owner-for*).

The requirements of the statute are applicable to Federal lessees, defined by the Act as leases by the U.S. General Services Administration (GSA), the Architect of the Capitol, ''or the head of any Federal agency, other than the Department of Defense, that has independent statutory leasing authority.'' The Act is not applicable to the Department of Defense (DOD) or to the intelligence community. Section 2876 of the FY 2018 National Defense Authorization Act (Pub. L. 115–91) already provides DOD similar authority to obtain ownership information with respect to its high-security leased space.

The Act addresses national security risks identified in the U.S. Government Accountability Office (GAO) report, ''GSA Should Inform Tenant Agencies When Leasing High-Security Space from Foreign Owners,'' dated January 2017 (GAO–17–195) (available at *https://www.gao.gov/assets/gao-17-195.pdf*). This report found certain high-security Federal agencies were in buildings owned or controlled by foreign entities. According to the report, most Federal tenants were unaware the spaces GAO identified were subject to foreign ownership or control, exposing these agencies to the heightened risk of surreptitious physical or cyber espionage by foreign actors. The report also noted GAO could not identify the owners of approximately one-third of the Federal Government's high-security leases because such ownership information was unavailable for those buildings.

This final rule addresses the following specific requirements in Section 4 of the Act:

- Identification of beneficial ownership information.
- Development of a governmentwide plan for identifying all immediate, highest-level, and beneficial owners of high-security leased space.
- Submission of a corresponding report to Congress.

This final rule addresses the annual submission of ownership disclosures to GSA from agencies operating under either independent statutory leasing authority or a grant of delegated leasing authority from GSA.

What is a ''Beneficial Owner''?

Unlike the direct control–based immediate owner and highest-level owner, the Act defines the term ''beneficial owner'' to include any person that, through a contract, arrangement, understanding, relationship, or otherwise, exercises control over the covered entity or has a substantial interest in or receives substantial economic benefits from the assets of the covered entity, with some exceptions.

The Act is one of several recent examples of congressional concern about foreign ownership and control and congressional action in the world of government contracting to help address potential national security concerns. See, *e.g.,* FY 2021 National Defense Authorization Act (NDAA) (Pub. L. 116–283), § 819, Modifications to Mitigating

Risks Related to Foreign Ownership, Control, or Influence of DOD Contractors and Subcontractors; § 885, Disclosure of Beneficial Owners in Database for Federal Agency Contract and Grant Officers; § 6403, Beneficial Ownership Information Reporting Requirements, and, as of June 30, 2021, GSAR 2021–G527, Immediate and Highest-Level Owner for High-Security Leased Space.

Because of the related rulemaking, there are several definitions of ''beneficial owner'' (or ''beneficial ownership''). In an attempt to standardize the data provided to Congress, the definitions stated in the regulatory text need to be used to have consistency in the collection of information.

The United States Securities and Exchange Commission (SEC) Definition

Section 885 (Disclosure of beneficial owners in database for Federal agency contract and grant officers) of the FY 2021 NDAA (Pub. L. 116–283) [1] states that beneficial ownership has the meaning given under section 847 (Mitigating risks related to foreign ownership, control, or influence of Department of Defense contractors or subcontractors) of the FY 2020 NDAA (Pub. L. 116–92).[2] Section 847 does not specifically define beneficial ownership but requires ''beneficial ownership'' to ''be determined in a manner that is not less stringent than the manner set forth in section 240.13d–3 of title 17, Code of Federal Regulations.'' This Code of Federal Regulations reference is the SEC definition.[3] The SEC definition mainly concerns the beneficial owner of a security (*e.g.,* stock/bond/option for a corporation), not the corporation or company-at-large.

Corporate Transparency Act Definition

The Corporate Transparency Act (CTA) definition can be found at section 6403 of the FY 2021 NDAA. This section defines ''beneficial ownership'' as, with respect to an entity, an individual who, directly or indirectly, through any contract, arrangement, understanding, relationship, or otherwise, (i) exercises substantial control over the entity; or (ii) owns or controls not less than 25 percent of the ownership interests of the entity.

Financial Crimes Enforcement Network Definition

The U.S. Department of the Treasury's Financial Crimes Enforcement Network (FinCEN) issued a final rule implementing the beneficial ownership information reporting requirements of the CTA, at 87 FR 59498 (September 30, 2022, to be codified at 31 CFR 1010). These regulations go into effect on January 1, 2024.

Under the rule, a beneficial owner includes any individual who, directly or indirectly, either (1) exercises substantial control over a reporting company, or (2) owns or controls at least 25 percent of the ownership interests of a reporting company. The rule defines the terms ''substantial control'' and ''ownership interest.'' In keeping with the CTA, the rule exempts five types of individuals from the definition of ''beneficial owner.'' [4]

Secure Federal LEASEs Act Definition

A ''beneficial owner'' is ''with respect to a covered entity, each natural person who, directly or indirectly, through any contract, arrangement, understanding, relationship, or otherwise, (i) exercises control over the covered entity; or (ii) has a substantial interest in or receives substantial economic benefits from the assets of the covered entity, subject to certain exceptions listed in the section 2(1)(B).''

GSA's Interpretation

GSA interprets that the SEC definition is too limiting for use in the representation clause because it is concerned with the beneficial owner of a security rather than a company or corporation. The Secure Federal LEASEs Act, the CTA, and the subsequent FinCEN definitions are similar. The definitions similarly characterize a beneficial owner as someone who (i) controls a covered entity, or (ii) has a substantial interest. The primary difference between the two is related to ''substantial interest.'' The Secure Federal LEASEs Act states that a beneficial owner is someone who ''. . . has a substantial interest in or receives substantial economic benefits from the assets of the covered entity'' while the CTA and FinCEN definitions says a beneficial owner ''owns or controls not less than 25 percent of the ownership interests of the entity.'' GSA interprets that the FinCEN definition meets the intent of the SFLA (Pub. L. 116–276) definition. As such, GSA intends to base its definition on the FinCEN definition because it is more specific (''not less than 25 percent'' as opposed to having to define ''substantial interest'' or ''substantial economic benefits'') and because it would allow GSA to leverage FinCEN's efforts to collect beneficial owner information for all corporations. GSA does not believe this definition to be ''not less stringent'' than the SEC definition.

Other agencies may choose whether to replicate GSA's approach on how to collect the information by referring to GSA's rule for General Services Administration Acquisition Regulation (GSAR) Case 2021–G527 at 86 FR 34966 and GSAR Case 2021–G522 at 86 FR 73219. However, to have a consistent approach to the information GSA provides Congress, agencies must follow the definitions outlined in this final rule.

Covered entities already provide certain information on immediate and highest-level ownership, per Office of Management and Budget (OMB) Control Numbers 9000–0097, 9000–0185, and 3090–0324. However, covered entities will need to provide additional disclosure of creditors or other entities who may be deemed beneficial owners if they either exercise substantial control over the covered entity or own or control not less than 25 percent of the ownership interests of the covered entity. Therefore, property owners will need to take this provision into account when considering financing options for leasing high-security space to the Federal Government.

II. Discussion of the Final Rule

A. Summary of Significant Changes

As published in the proposed rule, GSA added subpart D to address the authorities, definitions, applicability, and information collection associated with the Secure Federal LEASEs Act. GSA also revised section 102–73.5 to expand the scope of the regulation in subpart D to apply to Federal agencies exercising independent leasing authority in addition to those operating under or subject to the authorities of the Administrator of General Services.

B. Analysis of Public Comments

In the proposed rule published in the **Federal Register** at 86 FR 71604 on December 17, 2021, GSA provided the public a 60-day comment period, which ended on February 15, 2022. GSA received one public comment in response to the proposed rule:

''With heightened international tensions from some foreign actors toward the US and increased threat of physical and cyber espionage, I agree and recommend that Sections 3 and 4 of

[1] *https://www.congress.gov/bill/116th-congress/house-bill/6395/text.*

[2] *https://www.congress.gov/bill/116th-congress/senate-bill/1790/text.*

[3] *https://www.ecfr.gov/current/title-17/chapter-II/part-240/section-240.13d-3#p-240.13d-3(a).*

[4] *https://www.fincen.gov/beneficial-ownership-information-reporting-rule-fact-sheet.*

the Secure Federal LEASEs Act be accepted under the noted Assumptions from GSA that (1) this rule will impact mainly Federal agencies and (2) the impact of this rule will not significantly change the way current Federal lessors interact with the GSA. It is very concerning that there are a large number of Federal agencies with high-security leases that are unaware they are leasing from foreign entities. Awareness and reporting of foreign lessors should indeed help close any security loopholes while not providing any further financial burden on the general public. Further, GSA should adopt the preferred [Corporate Transparency Act] CTA definition for the beneficial owner. Lastly, it is recommended that the GSA preferred method for reporting, Alternative 3, be adopted for the implementation of these rules.''

This comment was supportive of the rule. GSA did not change the regulatory text of the definition from the published proposed rule, but did add a sentence to clarify that it is based on the FinCEN definition for beneficial owner. The FinCEN definition was issued pursuant to the CTA and was published following GSA's proposed rule. GSA is using the FinCEN definition because it is more specific than the definition in the Secure Federal LEASEs Act and is congruent with the CTA definition.

GSA is also using Alternative 3 from the Analysis of Alternatives discussed in section VII. Regulatory Impact Analysis to collect and aggregate the disclosures from other Federal lessees and report it to Congress as directed in section 4 of the Act.

III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. OIRA has determined that this rule is a significant regulatory action and, therefore, was subject to review under subsection 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993.

IV. Congressional Review Act

OIRA has determined that this rule is not a ''major rule'' as defined by 5 U.S.C. 804(2). Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (codified at 5 U.S.C. 801–808), also known as the Congressional Review Act or CRA, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. GSA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States. A major rule under the CRA cannot take effect until 60 days after it is published in the **Federal Register**.

V. Regulatory Flexibility Act

This final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* because it applies to agency management or personnel. Therefore, a Final Regulatory Flexibility Analysis has not been performed.

VI. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FMR do not impose recordkeeping or information collection requirements, or the collection of information from offerors, contractors, or members of the public that require the approval of OMB under 44 U.S.C. 3501 *et seq.*

VII. Regulatory Impact Analysis

The cost and benefit impacts of amending FMR part 102–73 regarding real property acquisition to reflect current laws and regulatory policies to implement the section 4 requirements outlined in SFLA are discussed in the analysis below, which was developed by GSA in consultation with agency procurement officials and the GSA Office of Leasing. No public comments were received on this analysis, so GSA is finalizing this analysis without change as discussed below.

(A) Federal Leasing—Current Processes

Potential offerors are required to report certain ownership information to the System for Acquisition Management, including immediate or highest-level owners.

(B) Federal Government Leasing—General Security Framework

As outlined within the Interagency Security Committee (ISC) Standard and the GSA Leasing Desk Guide, the facility security level (FSL) [5] is set by the U.S. Department of Homeland Security—Federal Protective Service (FPS) and the client agency, in consultation with GSA as part of the requirements development phase of a lease acquisition. If the client agency and FPS have not already conferred, the Federal lessee and GSA must coordinate with the necessary parties to set the appropriate level of security before the solicitation is drafted. This level of security will be memorialized by the Security Organization as a preliminary FSL, which serves as a precursor to the final FSL generally made with the tenants' post-award. *The Risk Management Process for Federal Facilities: An Interagency Security Committee Standard* [6] outlines the policies required for federal tenants in consultation with the responsible Security Organization to determine, set, and modify levels of security. The ownership information collected through this rule will not affect the FSL designation.

(C) Federal Government Leasing—Determining Countermeasures

Federal lessees follow the ISC Standard for physical security criteria (PSC) for Federal Facilities. The standard establishes baseline physical security countermeasures for each FSL. The standard defines the process for determining the appropriate security measures through the ISC Risk Management Process; it also covers any uncommon measures required to address the unique risks at a particular facility. The GSA Public Buildings Service Leasing Desk Guide currently uses the PSC to prescribe the process for determining appropriate countermeasures for a facility. Therefore, GSA assumes other federal agency lessees adhere to ISC standards, as well, within their leasing guides and use the criteria provided by ISC to calculate the level of security required for the tenants.

(D) Compliance Plan

GSA assumes the following steps would most likely be part of an agency's plan to collect and report owner disclosures using GSA's governmentwide plan and GSAR 552.270–33 and 552.270–34:

1. Governmentwide Plan and Regulatory Familiarization.

[5] A categorization based on the analysis of several security-related facility factors, which serves as the basis for the implementation of countermeasures specified in ISC standards. (See ISC Standard, March 2021, available at *https://www.cisa.gov/sites/default/files/publications/The%20Risk%20Management%20Process%20-%202021%20Edition_1.pdf*).

[6] See ISC Standard, March 2021, available at https *https://www.cisa.gov/sites/default/files/publications/The%20Risk%20Management%20Process%20-%202021%20Edition_1.pdf*.

The agency reads and understands the governmentwide plan and potentially uses GSAR 552.270–33 and 552.270–34 for collection actions.

2. Workforce Training.

The agency must educate its purchasing/procurement professionals [7] to heighten their familiarity with GSA's governmentwide plan's disclosure requirements (as applicable).

3. Compliance with the Revised Representation Clause.

The agency must identify and disclose whether entities do or do not have a foreign beneficial owner of leased space. If an affirmative disclosure is made for leases involving high-security space, GSA must be notified of the disclosure made in the representation in accordance with the schedule set forth in the GSA governmentwide plan.

(E) Benefits

This Act requires the disclosure of the identification of all individuals who own or benefit from partial ownership of a property that will be leased by the Federal Government for high-security use. The statute is in response to GAO report GAO–17–195, titled ''Federal Real Property: GSA Should Inform Tenant Agencies When Leasing High-Security Space from Foreign Owners'' (available at *https://www.gao.gov/products/gao-17-195*) which indicated Federal agencies were vulnerable to espionage and other intrusions because foreign actors could gain unauthorized access to spaces used for classified operations or to store sensitive data. Agencies store law enforcement evidence and other sensitive data and are often unaware of foreign ownership of their office spaces. While many of the foreign owners identified in the 2017 GAO report were companies based in allied countries, such as Canada, Norway, Japan, or South Korea, other properties were owned and managed by entities based in more adversarial nations. The report noted Chinese-owned properties, in particular, presented security challenges because of the country's proclivity for cyberespionage and the close ties between private sector companies and the Chinese government. The GAO report highlighted the dangers posed by these properties, indicating that ''leasing space in foreign-owned buildings could present security risks such as espionage, unauthorized cyber and physical access to the facilities, and sabotage.''

The United States faces an expanding array of foreign intelligence threats by adversaries who are using increasingly sophisticated methods to harm the Nation.[8] Threats to the United States posed by foreign intelligence entities are becoming more complex and harmful to U.S. interests.[9] Foreign intelligence actors are employing innovative combinations of traditional spying, economic espionage, and supply chain and cyber operations to gain access to critical infrastructure and steal sensitive information and industrial secrets.[10] The exploitation of key supply chains by foreign adversaries represents a complex and growing threat to strategically important U.S. economic sectors and critical infrastructure.[11]

Additionally, by requiring ''Beneficial Owner'' information in the representation clause, Federal lessees will benefit by better understanding how an individual's ownership position can provide them access that could prove problematic for certain agencies. Congress underscored that ''money launderers and others involved in commercial activity intentionally conduct transactions through corporate structures in order to evade detection, and may layer such structures . . . across various secretive jurisdictions such that each time an investigator obtains ownership records for a domestic or foreign entity, the newly identified entity is yet another corporate entity, necessitating a repeat of the same process.'' [12] The ability to engage in activity and obtain financial services in the name of a legal entity without disclosing the identities of the natural persons who own or control the entity—the natural persons whose interests the legal entity most directly serves—enables those natural persons to conceal their interests. And, as FinCEN has noted previously, such concealment ''facilitates crime, threatens national security, and jeopardizes the integrity of the financial system.'' [13] The goal of the Act is to close security loopholes by directing Federal agencies to notify GSA whether foreign owners have a stake in high-security buildings leased by Federal agencies, either through foreign-incorporated legal entities or through ownership in United States-incorporated legal entities, particularly when the leased space is used for classified operations or to store sensitive data. While GSA and other Federal agencies have made positive changes in response to GAO's 2017 report, this rule will help support current best practices being followed more uniformly throughout the Federal Government.

Finally, this rule enables Federal lessees to obtain information on foreign ownership and provide it to Federal occupant agencies.

(F) Public Costs

1. To estimate the aggregate burden to agencies of complying with the Act, the number of disclosures to obtain was calculated using numbers pulled from GSA's records and databases.[14] As of December 2022, GSA has approximately 7,711 active leases. Of the 7,711, approximately 1,228 [15] (or 16 percent) of the leases are for high-security lease space (lease space in a facility with a security level of III, IV, or V).

2. GSA also delegates leasing authority to several agencies, which are required to follow GSA's policies. GSA estimates there are 6,000 leases represented by these agencies with the delegated leasing authority from GSA.[16] GSA does not have data available that identifies which of these leases are for high-security space. GSA assumes that these agencies with delegated leasing authority have a similar profile to GSA's for high-security leased space to total portfolio space, *i.e.,* 16 percent. This would bring the total number of high-security lease space for agencies with delegated leasing authority to 960 (6,000 × 16 percent).

3. Agencies possessing independent leasing authority are generally not required to follow GSA's policies, except for subpart D of 41 CFR part 102–73, made final by this rule. GSA indicates that there are 41 agencies with independent statutory leasing authority.[17] Further, GSA estimates there are 25,995 leases represented by these agencies.[18] GSA does not have

[7] GSA estimates that the purchasing/procurement professional requiring training as a result of this rule on average would be equal to a mid-career professional. The equivalent labor category used to capture cost estimates, therefore, is a GS–12, Step 5, or Journeyman Level 1.

[8] *National Counterintelligence Strategy of the United States of America 2020–2022.*

[9] *National Counterintelligence Strategy of the United States of America 2020–2022.*

[10] *National Counterintelligence Strategy of the United States of America 2020–2022.*

[11] *National Counterintelligence Strategy of the United States of America 2020–2022.*

[12] Corporate Transparency Act, section 6402(4).

[13] *Notice of Proposed Rulemaking: Customer Due Diligence Requirements for Financial Institutions, 79 FR 45151, 45153 (August 4, 2014).*

[14] If not otherwise stated, numbers related to leases are provided by the GSA Office of Leasing through surveying its internal databases.

[15] The GSA Office of Leasing provided this number by surveying its internal database.

[16] This information is based on internal inventory data sources provided by the GSA Office of Leasing.

[17] The GSA Office of Government-wide Policy used the Federal Real Property Profile Management System to determine the number of agencies with a lease authority indicator of independent statutory authority.

[18] This information is based on publicly available data sources provided by the GSA Office of Government-wide Policy Real Property Policy

Continued

data available to identify which of these leases are for high-security space. GSA assumes these agencies have a similar profile to GSA's for high-security leased space to total portfolio space, *i.e.,* 16 percent. This would bring the total number of high-security leased space for agencies with independent leasing authority to 4,159 (25,995 × 16 percent).

4. Based on historical data maintained by GSA's Office of Leasing, GSA estimates that 6 percent of its high-security leased space will be solicited for a new contract each year (6 percent of 1,228 = 74 leases). These solicitations result from a mix of expiring high-security leases or new requirements for high-security facilities. GSA assumes these trends will continue for the time horizon outlined by this regulatory impact analysis. Based on historic bid rates and high current vacancy levels, GSA further estimates that 3 lessors will make offers for each of these high-security lease procurements for a total of 222 offers (74 high-security leases awarded × 3 lessors competing for each solicitation = 222). GSA assumes the same profile for agencies with delegated leasing authority. This would bring the total number of high-security leased space solicited for a new contract each year for agencies with delegated leasing authority to 58 (6 percent of 960 = 58 leases). GSA further estimates that 3 lessors will make offers for each of these delegated leasing authority agency high-security lease procurements for a total of 174 offers (58 high-security leases awarded × 3 lessors competing for each solicitation = 174). GSA assumes the same profile for agencies with independent leasing authority. This would bring the total number of high-security leased space solicited for a new contract each year for agencies with independent leasing authority to 250 (6 percent of 4,159 = 250). GSA further estimates that 3 lessors will make offers for each of these independent leasing authority agency high-security lease procurements for a total of 750 offers (250 high-security leases awarded × 3 lessors competing for each solicitation = 750).

5. Since 2014, GSA has averaged approximately 31 renewal options per year for high-security leases (equal to approximately 17 percent of all renewals options during the same period) and averaged approximately 106 extensions for existing high-security leases (also equal to approximately 17 percent of all extensions during the same period). GSA assumes the same trend will continue in subsequent years. GSA assumes the same profile for agencies with delegated leasing authority. This would bring the total number of renewal options per year for high-security leases for delegated leasing authority agencies to 16 (equal to approximately 17 percent of all renewals options during the same period) and the total number of extensions for existing high-security leases for delegated leasing authority agencies to 64 (also equal to approximately 17 percent of all extensions during the same period). GSA assumes the same profile for agencies with independent leasing authority. This would bring the total number of renewal options per year for high-security leases for independent leasing authority agencies to 83 (equal to approximately 17 percent of all renewals options during the same period) and the total number of extensions for existing high-security leases for independent leasing authority agencies to 333 (also equal to approximately 17 percent of all renewals options for delegated and independent leasing authority during the same period).

6. GSA processed 340 novations per year for the last two years (therefore, approximately 4 percent of leases resulted in a novation (340/7,711)). GSA does not have data on how many of those were related to FSL III, IV, or V facilities. GSA will assume 16 percent of those novations were for FSL III, IV, or V leases, based on the percentage of high-security leased space in GSA's portfolio as noted above. Therefore, it is assumed 54 novations were processed for high-security leases in the last year (16 percent of 340 novations = 54). GSA assumes the same profile for agencies with delegated and independent leasing authority. This would bring the total number of novations per year for delegated leasing authority agencies to 240 (4 percent of 6,000 leases = 240) and the total number of high-security lease novations per year for delegated leasing authority agencies to 38 (16 percent of 240 novations = 38). GSA assumes the same profile for agencies with independent leasing authority. This would bring the total number of novations per year for independent leasing authority agencies to 1,040 (4 percent of 25,995 leases = 1,040 novations) and the total number of high-security lease novations for independent leasing authority agencies to 166 (16 percent of 1,040 novations = 166).

A breakdown is provided in the table below.

Part above		GSA	Delegated authority agencies	Independent lease authority agencies
1, 2, 3	Leased Space	7,711	6,000	25,995
	High-Security (HS) Leased Space.	1,228	960	4,159
4	HS New Procurements.	74	58	250
	HS New Offers	222	174	750
5	HS Renewals	31	16	83
	HS Extensions	106	64	333
6	Novations	340	240	1,040
	HS Novations	54	38	166
Total GSA, Delegated Authority Agencies, and Independent Lease Authority Agencies HS Leases Baseline.	Total of HS Lease Baseline.	6,347		
Total GSA, Delegated Authority Agencies, and Independent Lease Authority Agencies New HS Leases Baseline.		382		

Division. *https://www.gsa.gov/policy-regulations/policy/real-property-policy/asset-management/federal-real-property-profile-frpp/federal-real-property-public-data-set.*

(G) Public Total Costs

GSA notes that the amendment to FMR part 102.73—Real Estate Acquisition regarding real property acquisition to reflect current laws and regulatory policies carries no direct cost to the public. Section 4 of the Secure Federal Lease Act focuses solely on the government's required activities for the planning, disclosures and notifications, reporting, and implementation of the Act by GSA and Federal agencies to Congress.

(H) Government Cost Analysis

During the first and subsequent years after publication of the rule, leasing acquisition members (which include a combination of Leasing Contracting Officers, Lease Administration Managers, Realty Specialists, and General Counsel) will need to learn about GSA's government-wide plan and disclosure requirements. GSA estimates this cost by multiplying the time required to review the regulations and guidance implementing the rule by the estimated compensation, on average, of a GS–12 leasing acquisition member, unless otherwise specified. GSA assumes that leasing acquisition members will, on average, stay consistent in subsequent years. The same numbers and assumptions apply to agencies with delegated and independent leasing authority, as well.

For consistency, the number of leases to be reviewed match the numbers in the ''Total GSA, Delegated Authority Agencies, and Independent Lease Authority Agencies HS Leases Baseline'' row (6,347 combined) and ''Total GSA, Delegated Authority Agencies, and Independent Lease Authority Agencies New HS Leases Baseline'' row (382 combined) found in the table in subsection VII.(F)(6), above.

Below is a list of compliance activities related to regulatory familiarization that GSA anticipates will occur:

1. Government Compliance With Public Law 116–276. Subsection 4(a) Development of a Governmentwide Plan

The Government must educate its leasing acquisition members through a governmentwide plan to heighten their familiarity with the collection and reporting of the beneficial owners of high-security leased space.

a. GSA calculates it will take 160 hours in the second year to create the plan. GSA estimates this cost by multiplying the time required to develop and approve the plan by the estimated compensation, on average, of a GS–12 step 5 (based on the 2023 pay table for Rest of US). Therefore, GSA calculated the total estimated cost for this part of the rule to be *$9,806 (= 160 hours × $61.29 × 1).*

GSA estimates that it will take 5 hours in outyears to update the plan on a yearly basis. Therefore, GSA calculated the total estimated cost for this part of the rule to be *$306 (= 5 hours × $61.29 × 1).*

b. GSA calculates it will take 80 hours in the second year to submit the plan to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives. GSA estimates this cost by multiplying the time required to submit the plan by the estimated compensation, on average, of a GS–12. Therefore, GSA calculated the total estimated cost for this part of the rule to be *$4,903 (= 80 hours × $61.29 × 1).*

c. GSA estimates that it will take approximately 2,178 leasing acquisition members 30 minutes (0.5 hour [19]) to complete training related to the plan.[20] Therefore, GSA calculated the total estimated cost for this part of the rule to be *$66,745 (= 0.5 hours × $61.29 × 2,178).*[21]

After the initial training, GSA estimates it will take 15 minutes (0.25 hours [22]) to maintain training related to the plan. Therefore, GSA calculated the total estimated cost for this part of the rule to be *$33,372 (= 0.25 hours × $61.29 × 2,178).*

d. GSA estimates the 41 agencies with independent leasing authority may review GSAR sections 522.270–33 and 522.270–34 in a limited capacity to mirror GSA's policies. Therefore, GSA estimates those agencies may spend less time than GSA reviewing the GSAR provisions as they may write, review, and become familiar with their own internal policies. GSA estimated, on average, a GS–12 would spend 1 hour per year becoming familiar with GSAR sections 522.270–33 and GSAR 552.270–34; therefore, it would take independent leasing agencies 30 minutes (0.5 hours [23]) to review the GSAR. This would only occur for those agencies in the first year of collection and reporting. Therefore, GSA calculated the total estimated cost for this part of the rule to be *$1,256 (= 0.5 hours × $61.29 × 41).*

e. GSA calculates it will take 60 hours in the first year of collection and reporting for agencies with independent leasing authority to create their own policies in response to GSA's plan. GSA estimates this cost by multiplying the time required to develop the policy by the estimated compensation, on average, of a GS–12. Therefore, GSA calculated the total estimated cost for this part of the rule to be *$150,773 (= 60 hours × $61.29 × 41).*

GSA calculates it will take 2.5 hours in outyears to review the policy and, if necessary, revise the policy. Therefore, GSA calculated the total estimated cost for this part of the rule to be *$6,282 (= 2.5 hours × $61.29 × 41).*

f. GSA estimates agencies with independent leasing authority would spend 30 minutes (0.5 hours [24]) training their workforce on their new policy. Therefore, GSA calculated the total estimated cost for this part of the rule to be *$44,619 (= 0.5 hours × $61.29 × 1,456).*

GSA estimates agencies with independent leasing authority would spend 15 minutes (0.25 hours [25]) training their workforce on their policy in subsequent years. Therefore, GSA calculated the total estimated cost for this part of the rule to be *$22,310 (= 0.25 hours × $61.29 × 1,456).*

2. Government Compliance With Public Law 116–276. Subsection 4(b), Disclosures and Notifications

a. GSA estimates that, of the baseline high-security lessors for GSA and agencies with delegated leasing authority, each year 10 percent [26] (or 219 lessors) will respond affirmatively that the offeror ''does'' have an ''immediate owner,'' or ''is'' owned or

[19] The hours estimated are an assumption based on historical familiarization hours and subject matter expert judgment. Subject matter experts include representatives from GSA's Office of Leasing, including Realty Specialists and Leasing Contracting Officers.

[20] Combined number of GSA lease members and lease members from agencies with delegated and independent leasing authority.

[21] All totals in the Government Cost Analysis section are rounded.

[22] The hours estimated are an assumption based on historical familiarization hours and subject matter expert judgment. Subject matter experts include representatives from GSA's Office of Leasing, including Realty Specialists and Leasing Contracting Officers.

[23] The hours estimated are an assumption based on historical familiarization hours and subject matter expert judgment. Subject matter experts include representatives from GSA's Office of Leasing, including Realty Specialists and Leasing Contracting Officers.

[24] The hours estimated are an assumption based on historical familiarization hours and subject matter expert judgment. Subject matter experts include representatives from GSA's Office of Leasing, including Realty Specialists and Leasing Contracting Officers.

[25] The hours estimated are an assumption based on historical familiarization hours and subject matter expert judgment. Subject matter experts include representatives from GSA's Office of Leasing, including Realty Specialists and Leasing Contracting Officers.

[26] GSAR Case 2021–G527.

controlled by another entity (or ''highest owner''), or ''does'' involve a ''foreign entity,'' or any combination of the foregoing, and it will take leasing acquisition members approximately 5 hours to collect this information. Therefore, GSA calculated the total estimated cost for this part of the rule to be *$67,113 (= 5 hours × $61.29 × 219).*

GSA estimates it will take approximately 5 hours to collect the information submitted by GSA lease contracting officers and agencies with delegated leasing authority. Therefore, GSA calculated the total estimated cost for this part of the rule to be *$67,113 (= 5 hours × $61.29 × 219).*

b. GSA estimates that, of the new high-security lessors for GSA and agencies with delegated leasing authority, each year 10 percent [27] (or 13 lessors) will respond affirmatively that the offeror ''does'' have an ''immediate owner,'' or ''is'' owned or controlled by another entity (or ''highest owner''), or ''does'' involve a ''foreign entity,'' or any combination of the foregoing, and it will take leasing acquisition members approximately 1 hour to submit this information to GSA. Therefore, GSA calculated the total estimated cost for this part of the rule to be *$797 (= 1 hours × $61.29 × 13).*

c. GSA estimates it will take approximately 5 hours to collect the information submitted by GSA and agencies with delegated leasing authority. Therefore, GSA calculated the total estimated cost for this part of the rule to be *$797 (= 1 hours × $61.29 × 13).*

d. GSA estimates that, of the baseline high-security lessors for agencies with independent leasing authority, each year 10 percent (or 416 lessors) will respond affirmatively that the offeror ''does'' have an ''immediate owner,'' or ''is'' owned or controlled by another entity (or ''highest owner''), or ''does'' involve a ''foreign entity,'' or any combination of the foregoing, and it will take leasing acquisition members approximately 5 hours to collect this information. Therefore, GSA calculated the total estimated cost for this part of the rule to be *$127,483 (= 5 hours × $61.29 × 416).*

GSA estimates it will take approximately 5 hours to collect the information submitted by agencies with independent leasing authority. Therefore, GSA calculated the total estimated cost for this part of the rule to be *$127,483 (= 5 hours × $61.29 × 416).*

e. GSA estimates that, of the new high-security lessors for agencies with independent leasing authority, each year 10 percent (or 25 lessors) will respond affirmatively that the offeror ''does'' have an ''immediate owner,'', or ''is'' owned or controlled by another entity (or ''highest owner''), or ''does'' involve a ''foreign entity,'' or any combination of the foregoing, and it will take leasing acquisition members approximately 1 hour to collect this information. Therefore, GSA calculated the total estimated cost for this part of the rule to be *$1,532 (= 1 hours × $61.29 × 25).*

GSA estimates it will take approximately 1 hour to collect the information submitted by agencies with independent leasing authority. Therefore, GSA calculated the total estimated cost for this part of the rule to be *$1,532 (= 1 hours × $61.29 × 25).*

3. Government Compliance With Public Law 116–276. Subsection 4(c), Report and Implementation

a. GSA estimates it will take 8 hours beginning in year 3 to submit an annual report to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives. Therefore, GSA calculated the total estimated cost for this part of the rule to be $490 *(= 8 hours × $61.29 × 1).*

4. Government Compliance With Public Law 116–276. Subsection 4(c)(3), Secure Federal Lease Act Consideration of Implementation Improvements

a. GSA estimates it will take a total of 40 hours in years 3 and 4 to review and consider commercial technology offerings to improve data collection. Therefore, GSA calculated the total estimated cost for this part of the rule to be $2,452 *(= 40 hours × $61.29 × 1).*

b. GSA estimates it will take a total of 8 hours in years 5–10 to review and consider new commercial technology offerings to improve data collection. Therefore, GSA calculated the total estimated cost for this part of the rule to be *$306 (= 8 hours × $61.29 × 1).*

5. Government Total Costs

The total cost of the above Cost Estimate is *$605,207* in the first year after publication.[28] The total cost of the above Cost Estimate in subsequent years is *$72,432* annually.[29]

The following is a summary of the estimated costs calculated for a 10-year time horizon at a 3- and 7-percent discount rate:

Summary	Total costs
Present Value (3 percent)	$1,052,989
Annualized Costs (3 percent)	123,442
Present Value (7 percent)	912,461
Annualized Costs (7 percent)	129,914

6. Overall Total Costs

The overall total cost is equal to subsection VII.(H), Government Total Costs, above, as there is no direct cost to the public based on the amendment to FMR part 102.73 as noted in subsection VII.(G), above.

(I) Analysis of Alternatives

The preferred alternative is the process laid out in the Act whereby GSA annually collects disclosures from Federal lessees and then reports that information to Congress.

Alternative 1: GSA could take no regulatory action to implement this statute. However, this alternative would not provide any implementation and enforcement of the important national security measures imposed by the law. Moreover, the general public would not experience the benefits of improved national security resulting from the rule as detailed above in subsection VII.(E). As a result, we reject this alternative.

Alternative 2: Federal lessees could send information on their activity directly to Congress, rather than in a centralized approach through GSA. However, GSA rejects this approach given the likelihood of inconsistent collection and reporting of data along with potential additional costs and burden to government agencies.

Alternative 3: GSA could follow the implementation approach based on section 4 of the Act directing GSA to aggregate disclosures from each Federal lessee one year after the implementation of the plan described in subsection (a) of the Act, and each year thereafter for 9 years, submit a report to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives on the status of the implementation of the plan, including the number of disclosures. This is the preferred method, which will allow GSA to help close security loopholes by designing a verification system that identifies a property's owners if the space would be used for high-security purposes. In addition, this rule will help support current best practices being followed more uniformly throughout the Federal Government. Finally, this rule enables Federal lessees to obtain information on foreign ownership and provide it to relevant Federal occupant agencies.

[27] GSAR Case 2021–G527.

[28] Total costs calculated by GSA.

[29] Total costs calculated by GSA.

List of Subjects in 41 CFR Part 102–73

Administrative practice and procedure, Federal buildings and facilities, Rates and fares.

Robin Carnahan,

Administrator of General Services.

Therefore, GSA amends 41 CFR part 102–73 as set forth below:

PART 102–73—REAL ESTATE ACQUISITION

■ 1. The authority citation for part 102–73 is revised to read as follows:

Authority: 40 U.S.C. 121(c); sec. 3(c), Reorganization Plan No. 18 of 1950 (40 U.S.C. 301 note); sec. 1–201(b), E.O. 12072, as amended by E.O. 13946, 85 FR 52879, Aug 27, 2020; Pub. L. 116–276, 134 Stat. 3362.

■ 2. Revise § 102–73.5 to read as follows:

§ 102–73.5 What is the scope of this part?

The real property policies contained in this part apply to Federal agencies, including GSA's Public Buildings Service, operating under, or subject to, the authorities of the Administrator of General Services; except for subpart D of this part, which applies to Federal agencies exercising independent leasing authority in addition to those agencies operating under or subject to the authorities of the Administrator of General Services.

■ 3. Add subpart D to read as follows:

Subpart D—Secure Federal Leases From Espionage and Suspicious Entanglements Act

Sec.

102–73.310 What are the governing authorities for this subpart?
102–73.315 What definitions apply to this subpart?
102–73.320 Who must comply with these provisions?
Information Collection
102–73.325 What information must a covered entity provide to the Federal lessee?
102–73.330 What information must a Federal lessee provide to GSA?
102–73.335 When must Federal lessees provide information to GSA?
102–73.340 How must Federal lessees provide information to GSA?

Subpart D—Secure Federal Leases From Espionage and Suspicious Entanglements Act

§ 102–73.310 What are the governing authorities for this subpart?

The governing authorities are the Secure Federal Leases from Espionage and Suspicious Entanglements Act, Public Law 116–276, 134 Stat. 3362 (2020) (the ''Secure Federal LEASEs Act''), and 40 U.S.C. 121(c).

§ 102–73.315 What definitions apply to this subpart?

Beneficial owner means:

(1) With respect to a covered entity, an individual who, directly or indirectly, through any contract, arrangement, understanding, relationship, or otherwise—

(i) Exercises substantial control over the covered entity; or

(ii) Owns or controls not less than 25 percent of the ownership interests of the covered entity.

(2) This definition is based on the Department of the Treasury Financial Crimes Enforcement Network's Beneficial Ownership Information Reporting Requirements at 31 CFR part 1010.

Control means, with respect to a covered entity:

(1) Having the authority or ability to determine how a covered entity is used; or

(2) Having some decision-making power for the use of a covered entity.

Covered entity, as defined by the Secure Federal LEASEs Act, means:

(1) A person, corporation, company, business association, partnership, society, trust, or any other nongovernmental entity, organization, or group; or

(2) Any governmental entity or instrumentality of a government.

Federal lessee, as defined by the Secure Federal LEASEs Act, means:

(1) The Administrator of General Services, the Architect of the Capitol, or the head of any Federal agency, other than the Department of Defense, that has independent statutory leasing authority; and

(2) Does not include the head of an element of the intelligence community.

Highest-level owner means the entity that owns or controls an immediate owner of the offeror or lessor, or that owns or controls one or more entities that control an immediate owner of the offeror or lessor. No entity owns or exercises control of the highest-level owner.

Immediate owner means an entity, other than the offeror or lessor, that has direct control of the offeror or lessor. Indicators of control include, but are not limited to, one or more of the following: ownership or interlocking management, identity of interests among family members, shared facilities and equipment, and the common use of employees.

§ 102–73.320 Who must comply with these provisions?

Each Federal lessee and covered entity must cooperate and comply with these provisions.

Information Collection

§ 102–73.325 What information must a covered entity provide to a Federal lessee?

Sections 3 and 4 of the Secure Federal LEASEs Act require that, before the Government may enter into a lease agreement or novation with an entity for high-security leased space (defined as Facility Security Level III, IV, or V), offerors must disclose whether the immediate owner, highest-level owner, or beneficial owner of the leased space, including an entity involved in the financing thereof, is a foreign person or entity, including the country associated with the ownership entity.

§ 102–73.330 What information must a Federal lessee provide to GSA?

Federal lessees must provide the following information when sharing their Secure Federal LEASEs Act disclosures with GSA:

(a) Name of the agency conducting the procurement;

(b) Date of disclosure;

(c) Solicitation number or Contract number (for novations);

(d) Type of Action (prior to entering a lease or prior to a novation agreement);

(e) Total number of affirmative disclosures made (note—in some instances, there may be more than one owner-of-a-type. If more than one affirmative disclosure is made, include all disclosures);

(f) As part of the total number of disclosures made, was one of the disclosures an affirmative immediate owner disclosure? If so, how many?;

(g) As part of the total number of disclosures made, was one of the disclosures an affirmative highest-level owner disclosure? If so, how many?; and

(h) As part of the total number of disclosures made, was one of the disclosures an affirmative beneficial owner disclosure? If so, how many?

§ 102–73.335 When must Federal lessees provide information to GSA?

Federal lessees must submit the required information on an annual basis.

§ 102–73.340 How must Federal lessees provide information to GSA?

Federal lessees must submit the required information to GSA by email at *SFLA@gsa.gov*.

[FR Doc. 2023–04340 Filed 3–6–23; 8:45 am]

BILLING CODE 6820–14–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 230301–0060]

RIN 0648–BM04

Pacific Halibut Fisheries; Catch Sharing Plan; 2023 Annual Management Measures

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

ACTION: Final rule.

SUMMARY: The Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, on behalf of the International Pacific Halibut Commission (IPHC), publishes as regulations the 2023 annual management measures governing the Pacific halibut fishery that have been recommended by the IPHC and accepted by the Secretary of State, with the concurrence of the Secretary of Commerce. These measures are intended to enhance the conservation of Pacific halibut and further the goals and objectives of the Pacific Fishery Management Council (PFMC) and the North Pacific Fishery Management Council (NPMFC).

DATES: The IPHC's 2023 annual management measures became effective February 28, 2023. The 2023 management measures are effective until superseded.

ADDRESSES: Additional requests for information regarding this action may be obtained by contacting the International Pacific Halibut Commission, 2320 W Commodore Way, Suite 300, Seattle, WA 98199–1287; or Sustainable Fisheries Division, NMFS Alaska Region, P.O. Box 21668, Juneau, AK 99802; or Sustainable Fisheries Division, NMFS West Coast Region, 1201 NE Lloyd Blvd., Suite 1100, Portland, OR 97232. This final rule also is accessible via the internet at the Federal eRulemaking Portal at *http://www.regulations.gov,* identified by docket number NOAA–NMFS–2022–0085.

FOR FURTHER INFORMATION CONTACT: For Convention waters off Alaska, Mason Smith, 907–586–7228; or, for Convention waters off the U.S. West Coast, Katie Davis, 562–980–4050.

SUPPLEMENTARY INFORMATION:

Background

The IPHC has recommended regulations that would govern the Pacific halibut fishery in 2023, pursuant to the Convention between Canada and the United States for the Preservation of the Halibut Fishery of the North Pacific Ocean and Bering Sea (Convention), signed at Ottawa, Ontario, on March 2, 1953, as amended by a Protocol Amending the Convention (signed at Washington, DC, on March 29, 1979).

As provided by the Northern Pacific Halibut Act of 1982 (Halibut Act), the Secretary of State, with the concurrence of the Secretary of Commerce, may accept or reject, on behalf of the United States, regulations recommended by the IPHC in accordance with the Convention. 16 U.S.C. 773b. The Secretary of State, with the concurrence of the Secretary of Commerce, accepted the 2023 IPHC regulations on February 28, 2023.

The Halibut Act provides the Secretary of Commerce with the authority and general responsibility to carry out the requirements of the Convention and the Halibut Act. The Regional Fishery Management Councils may develop, and the Secretary of Commerce may implement, regulations governing harvesting privileges among U.S. fishermen in U.S. waters that are in addition to, and not in conflict with, approved IPHC regulations. The NPFMC has exercised this authority in developing halibut management programs for three fisheries that harvest halibut in Alaska: the subsistence, sport, and commercial fisheries. The PFMC has exercised this authority by developing a catch sharing plan governing the allocation of halibut and management of sport fisheries on the U.S. West Coast.

The IPHC apportions catch limits for the Pacific halibut fishery among regulatory areas (Figure 1): Area 2A (Oregon, Washington, and California), Area 2B (British Columbia), Area 2C (Southeast Alaska), Area 3A (Central Gulf of Alaska), Area 3B (Western Gulf of Alaska), and Area 4 (which is further divided into 5 areas, 4A through 4E, in the Bering Sea and Aleutian Islands of Western Alaska).

Subsistence and sport halibut fishery regulations for Alaska are codified at 50 CFR part 300. Commercial halibut fisheries off Alaska are subject to regulations resulting from the Individual Fishing Quota (IFQ) Program, the Community Development Quota (CDQ) Program (50 CFR part 679), and the area-specific catch sharing plans (CSPs) for Areas 2C, 3A, and Areas 4C, 4D, and 4E, respectively.

The NPFMC implemented a CSP among commercial IFQ and CDQ halibut fisheries in IPHC Regulatory Areas 4C, 4D, and 4E (Area 4, Western Alaska) through rulemaking, and the Secretary of Commerce approved the plan on March 20, 1996 (61 FR 11337). The Area 4 CSP regulations are codified at 50 CFR 300.65. New annual regulations pertaining to the Area 4 CSP also may be implemented through IPHC action, subject to acceptance by the Secretary of State, with the concurrence of the Secretary of Commerce.

The NPFMC recommended and NMFS implemented through rulemaking a CSP for guided sport (charter) and commercial IFQ halibut fisheries in IPHC Regulatory Areas 2C and 3A on January 13, 2014 (78 FR 75844, December 12, 2013). The Area 2C and 3A CSP regulations are codified at 50 CFR 300.65. The CSP defines an annual process for allocating halibut between the commercial and charter fisheries so that each sector's allocation varies in proportion to halibut abundance, specifies a public process for setting annual management measures, and authorizes limited annual leases of commercial IFQ for use in the charter fishery as guided angler fish (GAF).

The IPHC held its annual meeting in Victoria, British Columbia, Canada, from January 23 through 27, 2023 and recommended a number of changes to the previous IPHC regulations (87 FR 12604, March 7, 2022). On February 28, 2023, the Secretary of State, with the concurrence of the Secretary of Commerce, accepted the annual management measures, including the following changes to Section 5, Section 9, Section 27, Section 28, and other Sections of the 2023 IPHC regulations:

1. New halibut catch limits in all regulatory areas. The catch limits are presented in two tables in Section 5 that distinguish between limits resulting from Commission decisions and limits that result from domestic catch sharing plans that have been developed by the respective United States and Canada governments;

2. New start date of March 10 in Section 9;

3. New management measures for Area 2C and Area 3A guided sport fisheries in Section 28;

4. New flexibility for limited on-board consumption of sport-caught halibut in Section 28;

5. Revisions to permitting requirements and management measures for Area 2A non-tribal commercial and recreational charter vessels in Section 13;

6. A new reference to the Pacific Coast Groundfish non-trawl logbook provided by NOAA Fisheries, which is added to the list of logbooks that can fulfill IPHC log requirements in Area 2A;

7. New management measures in Section 27 concerning the daily two-fish bag limit in Area 2B that allow Canada to increase that daily limit to three fish on or after August 1 each year through 2025; and

8. Minor technical corrections to improve consistency and clarity throughout the IPHC regulations, to include renumbering the regulations beginning with Section 13 and higher.

Pursuant to regulations at 50 CFR 300.62, the 2023 IPHC annual management measures are published in the **Federal Register** in this action to provide notice of their regulatory effectiveness and to inform persons subject to the regulations of their restrictions and requirements. Because the regulations published in this action are applicable to the entire Convention area, these regulations include some provisions relating to and affecting Canadian fishing and fisheries. In separate actions, NMFS may implement more restrictive regulations for the U.S. halibut fishery or components of it; therefore, anglers are advised to check the current Federal and IPHC regulations prior to fishing.

Catch Limits

The IPHC recommended to the governments of Canada and the United States fishery catch limits for 2023 totaling 29,840,000 lb (13,535 mt). The IPHC refers to catch limits as Fishery Constant Exploitation Yield (FCEY), which is derived from Total Constant Exploitation Yield (TCEY) by directed fisheries that are specified in IPHC regulations and are subject to area-specific catch agreements among the domestic parties. Coastwide, the 2023 FCEY decreased 10.1 percent from the FCEY implemented in 2022. Except for Area 2A, which increased by approximately 2 percent, the FCEY in each regulatory area decreased relative to the 2022 catch limit. A description of the process the IPHC used to set these catch limits follows.

For the upcoming 2023 halibut fishing year, the IPHC conducted its annual stock assessment using a range of updated data sources as described in detail in the IPHC overview of data sources for the Pacific halibut stock assessment, harvest policy, and related analyses (IPHC–2023–AM099–11; available at *www.iphc.int*). To evaluate the Pacific halibut stock, the IPHC uses an ''ensemble'' of four equally weighted models: two long time-series models incorporating data from 1888 to the present and two short time-series models incorporating data from 1992 to the present. For each time-series, the two models include data that are either divided by four geographical regions or aggregated into coastwide summaries. These models incorporate data through 2022 from the IPHC Fishery Independent Setline Survey (FISS); the commercial halibut fishery; the NMFS Eastern Bering Sea trawl survey; length and weight-at-age and male/female sex ratio estimates by region in the directed commercial fisheries and in the FISS; and age distribution information for bycatch, sport, and sublegal discard removals. The most important change in the 2022 stock assessment was a new estimation of natural mortality in the regional short time-series model, which resulted in more optimistic stock projections due to the increase in estimated productivity in the stock.

The results of the ensemble models are integrated and incorporate uncertainty in natural mortality rates, environmental effects on recruitment, and other structural and parameter categories, consistent with practices in place since 2012. The data and assessment models used by the IPHC are reviewed by the IPHC's Scientific Review Board, comprised of non-IPHC scientists who provide an independent scientific review of the data and stock assessment to provide recommendations to IPHC staff and the Commissioners. The Scientific Review Board did not identify any substantive errors in the data or methods used in the 2023 stock assessment. NMFS believes the IPHC's data and assessments models constitute the best available science on the status of the Pacific halibut resource.

The IPHC's data, including the FISS, indicate that the Pacific halibut stock declined continuously from the late 1990s to around 2012, largely as a result of decreasing size at a given age (size-at-age), higher harvest rates in the early 2000s, and weaker recruitment than observed during the 1980s. From about 2013 to 2016, there was a slight increasing trend in the spawning biomass, followed by a slight decline continuing into the current assessment, where the spawning biomass appears to have stabilized. Overall, the spawning biomass is estimated to be approximately 192,000,000 lb (87,100 mt) at the beginning of 2023. The spawning biomass stock is currently estimated to be at 42 percent of its unfished state, near the lowest observed since the 1970s. This estimate reflects updated calculations recommended during stock assessment external review and review by the Scientific Review Board, as well as developments in the IPHC Management Strategy Evaluation.

The IPHC accounts for the total mortality of halibut from all sources, and employs a management procedure that establishes a coastwide reference level of fishing intensity so that the Spawning Potential Ratio (SPR) is equal to 43 percent. The reference fishing intensity of F43 percent SPR would allow a level of fishing intensity that is expected to result in approximately 43 percent of the spawning biomass per recruit compared to an unfished stock (*i.e.,* no fishing mortality). Lower F values would be expected to result in higher fishing intensity.

The IPHC harvest decision table (Table 3 in IPHC–2023–AM099–11; available at *www.iphc.int*) provides a comparison of the relative risk of a decrease in stock biomass, stock status, or fishery metrics for a range of fishing intensities for 2023. The harvest decision table employs two metrics of fishing mortality: (1) the TCEY, which includes harvests and incidental discard mortality from directed commercial fisheries; mortality estimates from sport, subsistence, and personal use; and estimates of non-directed discard mortality of halibut over 26 inches (66.0 cm) (O26); and (2) Total Mortality, which includes all the above sources of mortality, plus estimates of non-directed discard mortality of halibut less than 26 inches (66.0 cm) (U26). Although U26 halibut mortality is factored into the stock assessment and harvest strategy calculations, there is currently no reliable tool for describing the annual coastwide distribution of U26 halibut.

For 2023, the IPHC adopted a TCEY totaling 36,970,000 lb (16,769 mt) coastwide. This corresponds to a fishing intensity of approximately F53 percent, which is more conservative than the F43 percent target level of fishing intensity used to establish the TCEY for 2022. The 2023 TCEY is 4,250,000 lb (1,928 mt), or 10.3%, less than the TCEY adopted in 2022.

In making its recommendation, the IPHC considered likely stock status and uncertainties, as well as the significant social and economic impacts of catch limits among areas. The IPHC noted that a recent change in the treatment of the natural mortality rate, from the previously assumed value of 0.15 to an estimated value of to 0.21 in the short regional model, and its effect on the full ensemble, resulted in more optimistic projections due to the increase in the estimated productivity of the stock. The IPHC noted that despite the optimistic predictions for the long-term status of the stock, the near term fishery will rely heavily on a single (2012) year class and

that the FISS and commercial fishery catch rates were currently at their lowest rates in 30 years.

At a 36,970,000 lb (16,769 mt) TCEY, the IPHC estimated a relatively low probability that the spawning biomass will decrease from 2024 to 2026 relative to 2023. Specifically, the IPHC estimated a 38% probability of stock decline through 2024, and a 36% probability of stock decline through 2026. The IPHC noted that if the recent reference level of fishing intensity continued, the probability of a spawning biomass decline was 75 percent by 2024 and 71 percent by 2026. The factors that the IPHC considered in making their TCEY recommendations are described in the 2023 Annual Meeting Report (IPHC–2023–AM099–R; available at *www.iphc.int*), and the key recommendations are briefly summarized here.

This final rule does not establish the combined commercial and recreational catch limit for Area 2B (British Columbia), which is subject to rulemaking by the Canada and British Columbia governments. However, the IPHC's recommendation for the Area 2B catch limit is directly related to the current and future U.S. catch limits established by this final rule and is therefore discussed herein. The IPHC recommended a 2023 TCEY of 6,780,000 (3,075 mt) for Area 2B, which equates to 18.3 percent of the total coastwide TCEY and is a 10.3 percent reduction from 2022. The IPHC made this recommendation after considering recent historic harvests in Area 2B, the equal 10.3 percent reduction recommended for the total U.S. areas, and similar factors associated with the stock conditions, commercial fishery and FISS performance, and stock assessment results described above in the 2023 Annual Meeting Report (IPHC–2023–AM099–R; available at *www.iphc.int*). The IPHC additionally adopted new regulations in Section 27 to allow a daily bag limit of up to three fish per day in Area 2B beginning on or after August 1 each year until 2025. Although a change from the historical two-fish bag limit that existed prior to 2022, this change had no impact on the TCEY allocations between the U.S. and Canada.

The IPHC adopted an allocation to Area 2A that would provide a TCEY of 1,650,000 lb (748 mt) with a combined commercial, tribal, and recreational catch limit of 1,520,000 (689 mt). The IPHC noted that the United States Government recognizes its trust responsibility to the 13 treaty tribes in IPHC Regulatory Area 2A that depend upon Pacific halibut. As such, the U.S. Commissioners have consistently supported a TCEY of 1,650,000 lb for Regulatory Area 2A since 2019. This allocation reflects the needs of West Coast Pacific halibut users, with minimal impact on the larger Pacific halibut biomass that is distributed to the north, and it remains a small fraction of the IPHC Region 2 allocation. Stock assessment scientists at the IPHC Secretariat have affirmed that under the current status of the Pacific halibut stock, a higher TCEY for Regulatory Area 2A than what may be indicated by the modeled stock distribution will not create a conservation concern.

After the allocations for Areas 2A and 2B are accounted for, the IPHC apportioned the remaining TCEY to the Alaska regulatory areas (Areas 2C through Area 4) after considering the distribution of harvestable biomass of halibut based on the FISS, as well as 2022 harvest rates, the recommendations from the IPHC's advisory boards, public input, and social and economic factors. All U.S. areas maintained or decreased in TCEY relative to 2022 (see Table 1). The largest decreases were in Areas 4A (−17.6 percent) and 3A (−17 percent), while Areas 2C, 3B, 4B, and 2B received decreases ranging from −1 to −10.3 percent relative to 2022. As noted above, Area 2A received the same TCEY in 2023 as it did in 2022. The IPHC determined that the 2023 catch limit recommendations are consistent with its conservation objectives for the halibut stock and its management objectives for the halibut fisheries.

The IPHC also considered the Catch Sharing Plan for Area 4CDE developed by the NPFMC in its catch limit recommendation. The Area 4CDE catch limit is determined by subtracting estimates of the Area 4CDE subsistence harvests, commercial discard mortality, and non-directed discard mortality of halibut over 26 inches (66.0 cm) from the area TCEY. When the resulting Area 4CDE catch limit is greater than 1,657,600 lb (751.87 mt), a direct allocation of 80,000 lb (36.29 mt) is made to Area 4E to provide CDQ fishermen in that area with additional harvesting opportunity. After this 80,000 lb (36.29 mt) allocation is deducted from the catch limit, the remainder is divided among Areas 4C, 4D, and 4E according to the percentages specified in the CSP. Those percentages are 46.43 percent each to 4C and 4D and 7.14 percent to 4E. For 2023, the IPHC recommended a catch limit for Area 4CDE of 2,020,000 (916 mt).

TABLE 1—PERCENT CHANGE IN TCEY MORTALITY LIMITS FROM 2022 TO 2023 BY IPHC REGULATORY AREA

Regulatory area	2022 Total mortality limit (lb)	2023 Total mortality limit (lb)	Change from 2022 (percent)
2A	1,650,000 (748 mt)	1,650,000 (748 mt)	0.0
2B	7,560,000 (3,429 mt)	6,780,000 (3,075 mt)	−10.3
2C	5,910,000 (2,681 mt)	5,850,000 (2,654 mt)	-1.0
3A	14,550,000 (6,600 mt)	12,080,000 (5,479 mt)	−17.0
3B	3,900,000 (1,769 mt)	3,670,000 (1,665 mt)	-5.9
4A	2,100,000 (953 mt)	1,730,000 (785 mt)	−17.6
4B	1,450,000 (658 mt)	1,360,000 (617 mt)	-6.2
4CDE	4,100,000 (1,860 mt)	3,850,000 (1,746 mt)	-6.1
Coastwide	41,220,000 (18,697 mt)	36,970,000 (16,769 mt)	−10.3

Commercial Halibut Fishery Opening and Closing Dates

The IPHC considers advice from the IPHC's two advisory boards, as well as direct testimony from the public, when selecting opening and closing dates for the commercial halibut fishery. The 2023 commercial halibut fishery opening date for all IPHC regulatory areas is March 10, 2023. The closing date for the commercial halibut fisheries in all IPHC regulatory areas is December 7, 2023. These commercial season dates are a slight change from the season dates adopted by the IPHC in 2022. The season opening of March 10 is more similar to the mid-March opening common in the years prior to 2021,

while the closing date of December 7 is consistent with the closing date in 2021 and 2022, representing an extension of time beyond the mid-November closing common in the years prior to 2021. The extended season maintains harvesting and market flexibility that stakeholders have identified as important during the current period of uncertainty. The season dates allow for the anticipated time required to fully harvest the commercial halibut catch limits, seasonal holidays, and adequate time for IPHC staff to review the complete record of 2023 commercial catch data for use in the stock assessment process. The IPHC also considered the time required for the administrative tasks that are linked to halibut regulations developed independently by the domestic partners when establishing these season dates.

Area 2A Catch Sharing Plan

The NMFS West Coast Region will publish a proposed rule, with public comments accepted for 15 days, to approve the Pacific halibut CSP for Area 2A off Washington, Oregon, and California and implement annual management measures for Area 2A as recommended by the PFMC in the CSP. These annual management measures include sport fishery allocations and management measures for Area 2A that are not implemented through the IPHC. NMFS will address any comments received in a final rule. Effective January 4, 2023, NMFS published a final rule (87 FR 74322, December 5, 2022) to transfer the issuance of Area 2A commercial and recreational charter vessel permits from the IPHC to NMFS. The rule also established a regulatory framework for the Area 2A Pacific halibut directed commercial fishery that, consistent with the allocations and coastwide season dates set by the IPHC, allows NMFS to annually determine dates and times the fishery is open and set harvest limits for those periods of time. NMFS will publish in the **Federal Register** such fishing dates and harvest limits prior to the start of the commercial fishing season. Once published, the proposed and final rules for Area 2A will be available on the NMFS West Coast Region's website at *https://www.fisheries.noaa.gov/west-coast/commercial-fishing/pacific-halibut-fishing-west-coast* and also at *www.regulations.gov.*

Catch Sharing Plan for Area 2C and Area 3A

In 2014, NMFS implemented a CSP for Area 2C and Area 3A. The CSP defines an annual process for allocating halibut between the charter and commercial fisheries in Area 2C and Area 3A and establishes allocations for each fishery. Under the CSP, the IPHC adopted combined catch limits (CCLs) for the charter and commercial halibut fisheries in Area 2C and Area 3A. Each CCL includes estimates of discard mortality for each fishery. The CSP was implemented to achieve the halibut fishery management goals of the NPFMC. More information is provided in the final rule implementing the CSP (78 FR 75844, December 12, 2013). Implementing regulations for the CSP are at 50 CFR 300.65. The Area 2C and Area 3A CSP allocations are located in Tables 1 through 4 of subpart E of 50 CFR part 300. To allow additional flexibility for individual commercial and charter fishery participants, the CSP also authorizes annual transfers of commercial halibut IFQ as GAF to charter halibut permit holders for harvest in the charter fishery. GAF regulations for the CSP are at 50 CFR 300.65.

At its January 2023 meeting, the IPHC adopted a CCL of 4,360,000 (1,978 mt) for Area 2C. Following the CSP allocations in Tables 1 and 3 of subpart E of 50 CFR part 300, the charter fishery is allocated 800,000 (363 mt) of the CCL, and the remainder of the CCL, 3,560,000 lb (1,615 mt), is allocated to the commercial fishery. Discard mortality in the amount of 150,000 lb (68 mt) was deducted from the commercial allocation to obtain the commercial catch limit of 3,410,000 lb (1,547 mt). The commercial allocation (including discard mortality) decreased by 90,000 lb (40.8 mt), or 2.5 percent, from the 2022 allocation of 3,650,000 lb (1,656 mt). The 2023 Area 2C charter allocation of 800,000 lb (363 mt) is 20,000 lb (9.1 mt), or 2.5 percent less than the 2022 charter sector allocation of 820,000 lb (372 mt).

The IPHC adopted a CCL of 10,310,000 lb (4,676.5 mt) for Area 3A. Following the CSP allocations in Tables 2 and 4 of subpart E of 50 CFR part 300, the charter fishery is allocated 1,890,000 lb (857 mt) of the CCL and the remainder of the CCL, 8,420,000 lb (3,819 mt), is allocated to the commercial fishery. Discard mortality in the amount of 580,000 lb (263 mt) was deducted from the commercial allocation to obtain the commercial catch limit of 7,840,000 lb (3,556 mt). The commercial allocation (including discard mortality) decreased by 1,540,000 lb (698.5 mt), or 16.8 percent, from the 2022 allocation of 9,960,000 lb (4,518 mt). The charter allocation decreased by 220,000 lb (100 mt), or 11.3 percent, from the 2022 allocation of 2,110,000 lb (957 mt).

Charter Halibut Management Measures for Area 2C and Area 3A

Guided (charter) recreational halibut anglers are managed under different regulations than unguided recreational halibut anglers in Areas 2C and 3A in Alaska. According to Federal regulations at 50 CFR 300.61, a charter vessel angler means a person, paying or non-paying, receiving sport fishing guide services for halibut. Sport fishing guide services means assistance, for compensation or with the intent to receive compensation, to a person who is sport fishing, to take or attempt to take halibut by accompanying or physically directing the sport fisherman in sport fishing activities during any part of a charter vessel fishing trip. A charter vessel fishing trip is the time period between the first deployment of fishing gear into the water from a charter vessel by a charter vessel angler and the offloading of one or more charter vessel anglers or any halibut from that vessel. The charter fishery regulations described below apply only to charter vessel anglers receiving sport fishing guide services during a charter vessel fishing trip for halibut in Area 2C or Area 3A. These regulations do not apply to unguided recreational anglers in any regulatory area in Alaska, or guided anglers in areas other than Areas 2C and 3A.

To provide recommendations for annual management measures intended to limit charter harvest to the charter catch allocation, the NPFMC formed the Charter Halibut Management Committee (Committee) as a stakeholder advisory body. The Committee is composed of representatives from the charter fishing industry in Areas 2C and 3A who provide input on the preferred range of charter management measures each year. In October 2022, the Committee began their annual process by requesting analysis of management measures that would result in charter halibut removals within the range of expected allocations for each area. In addition, this annual analysis, which is prepared by the Alaska Department of Fish Game (ADFG), includes information about charter harvests in the prior year. The Analysis of Management Options for the Area 2C and 3A Charter Halibut Fisheries for 2023 (charter halibut analysis) is available at *https://www.npfmc.org/.*

After reviewing the charter halibut analysis, the Committee made conservative recommendations for preferred management measures to the NPFMC for 2023. These recommendations were intended to provide equitable harvest opportunity

across charter business arrangements and maintain total charter harvests within the 2023 allocations for both Areas 2C and 3A. The NPFMC considered the charter halibut analysis, the recommendations of the Committee, and public testimony to develop its recommendation to the IPHC. The NPFMC has used this process to select and recommend annual management measures to the IPHC since 2012.

The IPHC recognizes the role of the NPFMC to develop policy and regulations that allocate the Pacific halibut resource among fishermen in and off Alaska and that NMFS has developed numerous regulations to support the NPFMC's goals of limiting the charter halibut harvest to the charter catch allocation. The IPHC's adopted recommendations are consistent with the recommendations of the NPFMC and the Committee. The IPHC determined that limiting charter harvests by implementing the management measures discussed below would meet conservation and allocation objectives.

Management Measures for Charter Vessel Fishing in Area 2C

For 2023 in Area 2C, the IPHC adopted the continuation of a one-fish daily bag limit with a reverse slot limit that prohibits a person on board a charter vessel referred to in 50 CFR 300.65 and fishing in Area 2C from taking or possessing any halibut, with head on, that is greater than 40 inches (101.6 cm) and less than 80 inches (203.2 cm). To meet the 2023 allocation, the IPHC additionally adopted a closure of all Mondays from July 24 to December 31, 2023. The NPFMC and IPHC considered information on charter removals in 2022, and previous years' projections of charter harvest, and charter allocations. The charter halibut size limits referenced in this document are as measured in a straight line, passing over the pectoral fin from the tip of the lower jaw with mouth closed, to the extreme end of the middle of the tail. These measures are projected to yield 796,000 lb (361 mt) of charter removals, which is 4,000 lb (1.8 mt) and 0.5 percent below the Area 2C charter allocation. Reverse slot limits have proven an effective tool to limit the number and pounds of retained halibut. With the exception of the aforementioned Monday closures after July 24, these measures are consistent with the bag limit and reverse slot limit implemented for Area 2C in 2022.

Management Measures for Charter Vessel Fishing in Area 3A

For 2023, the IPHC adopted the following management measures for Area 3A: (1) a two-fish daily bag limit with a 28-inch (71.1 cm) maximum size limit on one of the halibut; (2) a one-trip per day limit for charter vessels and for charter halibut permits for the entire season; (3) prohibition on halibut retention by charter vessel anglers on all Wednesdays; and, (4) prohibition on halibut retention by charter vessel anglers on the following Tuesdays: June 20, June 27, July 4, July 11, July 18, July 25, August 1, August 8, August 15. The projected charter harvest for 2023 under this combination of recommended measures is 1,871,000 lb (848.7 mt), which is 19,000 lb (8.6 mt) and 1.0 percent below the charter allocation. Each of these management measures is described in the following section.

These management measures are more conservative than the primary management measures for Area 3A in 2022. The NPFMC and IPHC considered information on charter removals in 2022 and for previous years, the projections of charter harvest, and the charter allocation. With this information, the NPFMC and IPHC determined that more restrictive management measures in Area 3A, relative to the 2022 measures, were appropriate to limit charter removals to the 2023 allocation.

Size Limit for Halibut Retained on a Charter Vessel in Area 3A

The 2022 charter halibut fishery in Area 3A will be managed under a two-fish daily bag limit in which one of the retained halibut may be of any size and one of the retained halibut must be 28 inches (71.1 cm) or less. The 28 inch (71.1 cm) second fish maximum size limit was previously in effect from 2016 through 2019, and 2022, in Area 3A.

Trip Limit for Charter Vessels Harvesting Halibut in Area 3A

Charter halibut permits and charter vessels in 2023 are authorized for use to catch and retain halibut on one charter halibut fishing trip per day in Area 3A. If no halibut are retained during a charter vessel fishing trip, the charter halibut permit and vessel may be used to take an additional trip to catch and retain halibut that day. These regulations have been in place each year since 2016 and have proven to be effective in controlling halibut harvests.

For purposes of the trip limit in Area 3A in 2023, a charter vessel fishing trip will end when anglers or halibut are offloaded, or at the end of the calendar day, whichever occurs first. Charter operators are still able to conduct overnight trips and anglers may retain a bag limit of halibut on two calendar days, but operators are not allowed to begin another overnight trip until the day after the trip ends. GAF halibut are exempt from the trip limit. Therefore, GAF may be used to harvest halibut on a second trip in a day, but only if exclusively GAF halibut are harvested on that trip.

Day-of-Week Closures in Area 3A

The NPFMC recommended and the IPHC adopted a closure on retaining halibut by charter vessel anglers on all Wednesdays and the following Tuesdays for Area 3A in 2023: June 20, June 27, July 4, July 11, July 18, July 25, August 1, August 8, August 15. Retention of GAF halibut is allowed on charter vessels on closed days, but all other halibut that are caught while fishing on a charter vessel must be released. The day of week closures effectively decrease the charter halibut harvest to help stay within the allocation.

Other Regulatory Amendments

Limited On-Board Consumption

The IPHC adopted a new regulation in Section 28 to allow limited on-board consumption of halibut for recreational anglers in Alaska Regulatory Areas. This regulation adds flexibility to the existing recreational Pacific halibut fishing regulations, while retaining existing regulations that provide effective enforcement of daily bag limits and possession limits. Existing regulations allow recreationally caught halibut on charter vessels and pleasure craft to be cut into no more than 2 ventral pieces, 2 dorsal pieces, and 2 cheek pieces. Under the new regulations, either one dorsal piece or one ventral piece from one halibut on board the vessel may be consumed.

Logbook Requirements

The IPHC adopted a regulation revising the list of logbooks in Section 19(1) of IPHC regulations to include a new Pacific Coast Groundfish non-trawl logbook provided by NOAA Fisheries (87 FR 74328, December 5, 2022) to the list that can fulfill the IPHC log requirements in Area 2A.

International Pacific Halibut Commission Fishery Regulations 2023 (Annual Management Measures)

The following annual management measures for the 2023 Pacific halibut fishery are those recommended by the IPHC and accepted by the Secretary of State, with the concurrence of the Secretary of Commerce.

1. Short Title

These Regulations may be cited as the International Pacific Halibut Commission (IPHC) Fishery Regulations (2023).

2. Application

(1) These Regulations apply to persons and vessels fishing for Pacific halibut in, or possessing Pacific halibut taken from, the maritime area as defined in Section 3.

(2) Sections 3 to 8 and 29 apply generally to all Pacific halibut fishing.

(3) Sections 9 to 22 apply to commercial fishing for Pacific halibut.

(4) Section 23 applies to Indigenous fisheries in British Columbia.

(5) Section 24 applies to customary and traditional fishing in Alaska.

(6) Sections 25 to 28 apply to recreational (also called sport) fishing for Pacific halibut.

(7) These Regulations do not apply to fishing operations authorized or conducted by the Commission for research purposes.

3. Definitions

(1) In these Regulations,

(a) ''authorized officer'' means any State, Federal, or Provincial officer authorized to enforce these Regulations including, but not limited to, the National Marine Fisheries Service (NOAA Fisheries), Department of Fisheries and Oceans (DFO), Alaska Wildlife Troopers (AWT), United States Coast Guard (USCG), Washington Department of Fish and Wildlife (WDFW), the Oregon State Police (OSP), and California Department of Fish and Wildlife (CDFW);

(b) ''authorized clearance personnel'' means an authorized officer of the United States of America, an authorized representative of the Commission, or a designated fish processor;

(c) ''authorized representative of the Commission'' means any IPHC employee or contractor authorized to perform any task described in these Regulations.

(d) ''charter vessel'' outside of Alaska waters means a vessel used for hire in recreational (sport) fishing for Pacific halibut, but not including a vessel without a hired operator, and in Alaska waters means a vessel used while providing or receiving recreational (sport) fishing guide services for Pacific halibut;

(e) ''commercial fishing'' means fishing, the resulting catch of which is sold or bartered; or is intended to be sold or bartered, other than (i) recreational (sport) fishing; (ii) treaty Indian ceremonial and subsistence fishing as referred to in Section 23; (iii) Indigenous groups fishing in British Columbia as referred to in Section 24; and (iv) customary and traditional fishing as referred to in Section 25 and defined by and regulated pursuant to NOAA Fisheries regulations published at 50 CFR part 300;

(f) ''Commission'' or ''IPHC'' means the International Pacific Halibut Commission;

(g) ''daily bag limit'' means the maximum number of Pacific halibut a person may take in any calendar day from Convention waters;

(h) ''fishing'' means the taking, harvesting, or catching of fish, or any activity that can reasonably be expected to result in the taking, harvesting, or catching of fish, including specifically the deployment of any amount or component part of gear anywhere in the maritime area;

(i) ''fishing period limit'' means the maximum amount of Pacific halibut that may be retained and landed by a vessel during one fishing period;

(j) ''land'' or ''offload'' with respect to Pacific halibut, means the removal of Pacific halibut from the catching vessel;

(k) ''permit'' means a Pacific halibut fishing license issued by NOAA Fisheries;

(l) ''maritime area,'' in respect of the fisheries jurisdiction of a Contracting Party, includes without distinction areas within and seaward of the territorial sea and internal waters of that Party;

(m) ''net weight'' of a Pacific halibut means the weight of Pacific halibut that is without gills and entrails, head-off, washed, and without ice and slime. If a Pacific halibut is weighed with the head on or with ice and slime, the required conversion factors for calculating net weight are a 2 percent deduction for ice and slime and a 10 percent deduction for the head;

(n) ''operator,'' with respect to any vessel, means the owner and/or the master or other individual on board and in charge of that vessel;

(o) ''overall length'' of a vessel means the horizontal distance, rounded to the nearest foot, between the foremost part of the stem and the aftermost part of the stern (excluding bowsprits, rudders, outboard motor brackets, and similar fittings or attachments);

(p) ''person'' includes an individual, corporation, firm, or association;

(q) ''regulatory area'' means an IPHC Regulatory Area referred to in Section 4;

(r) ''setline gear'' means one or more stationary, buoyed, and anchored lines with hooks attached;

(s) ''sport fishing'' or ''recreational fishing'' means all fishing other than (i) commercial fishing; (ii) treaty Indian ceremonial and subsistence fishing as referred to in Section 23; (iii) Indigenous groups fishing in British Columbia as referred to in Section 24; and (iv) customary and traditional fishing as referred to in Section 25 and defined in and regulated pursuant to NOAA Fisheries regulations published in 50 CFR part 300;

(t) ''tender'' means any vessel that buys or obtains fish directly from a catching vessel and transports it to a port of landing or fish processor;

(u) ''total constant exploitation yield (TCEY)'' means the mortality comprised of Pacific halibut from directed fisheries and that from non-directed fisheries greater than 26 inches (66 cm) in length;

(v) ''VMS transmitter'' means a NOAA Fisheries-approved vessel monitoring system transmitter that automatically determines a vessel's position and transmits it to a NOAA Fisheries-approved communications service provider.[1]

(2) In these Regulations, all bearings are true and all positions are determined by the most recent charts issued by the United States National Ocean Service or the Canadian Hydrographic Service.

4. IPHC Regulatory Areas

The following areas within the IPHC Convention waters shall be defined as IPHC Regulatory Areas for the purposes of the Convention (see Figure 1):

(1) IPHC Regulatory Area 2A includes all waters off the states of California, Oregon, and Washington;

(2) IPHC Regulatory Area 2B includes all waters off British Columbia;

(3) IPHC Regulatory Area 2C includes all waters off Alaska that are east of a line running 340° true from Cape Spencer Light (58°11′56″ N latitude, 136°38′26″ W longitude) and south and east of a line running 205° true from said light;

(4) IPHC Regulatory Area 3A includes all waters between Area 2C and a line extending from the most northerly point on Cape Aklek (57°41′15″ N latitude, 155°35′00″ W longitude) to Cape Ikolik (57°17′17″ N latitude, 154°47′18″; W longitude), then along the Kodiak Island coastline to Cape Trinity (56°44′50″ N latitude, 154°08′44″ W longitude), then 140° true;

(5) IPHC Regulatory Area 3B includes all waters between Area 3A and a line extending 150° true from Cape Lutke (54°29′00″ N latitude, 164°20′00″ W longitude) and south of 54°49′00″ N latitude in Isanotski Strait;

[1] Call NOAA Enforcement Division, Alaska Region, at 907–586–7225 between the hours of 0800 and 1600 local time for a list of NOAA Fisheries-approved VMS transmitters and communications service providers.

(6) IPHC Regulatory Area 4A includes all waters in the Gulf of Alaska west of Area 3B and in the Bering Sea west of the closed area defined in Section 10 that are east of 172°00′00″ W longitude and south of 56°20′00″ N latitude;

(7) IPHC Regulatory Area 4B includes all waters in the Bering Sea and the Gulf of Alaska west of IPHC Regulatory Area 4A and south of 56°20′00″ N latitude;

(8) IPHC Regulatory Area 4C includes all waters in the Bering Sea north of IPHC Regulatory Area 4A and north of the closed area defined in Section 10 which are east of 171°00′00″ W longitude, south of 58°00′00″ N latitude, and west of 168°00′00″ W longitude;

(9) IPHC Regulatory Area 4D includes all waters in the Bering Sea north of IPHC Regulatory Areas 4A and 4B, north and west of IPHC Regulatory Area 4C, and west of 168°00′00″ W longitude; and

(10) IPHC Regulatory Area 4E includes all waters in the Bering Sea north and east of the closed area defined in Section 10, east of 168°00′00″ W longitude, and south of 65°34′00″ N latitude.

5. Mortality and Fishery Limits

(1) The Commission has adopted the following distributed mortality (TCEY) limits:

IPHC regulatory area	Distributed mortality limits (TCEY) (net weight)	
	Tonnes (t)	Million pounds (Mlb)
Area 2A (California, Oregon, and Washington)	748	1.65
Area 2B (British Columbia)	3,075	6.78
Area 2C (southeastern Alaska)	2,654	5.85
Area 3A (central Gulf of Alaska)	5,479	12.08
Area 3B (western Gulf of Alaska)	1,665	3.67
Area 4A (eastern Aleutians)	785	1.73
Area 4B (central and western Aleutians)	617	1.36
Areas 4CDE (Bering Sea)	1,746	3.85
Total	16,769	36.97

(2) The fishery limits resulting from the IPHC-adopted distributed mortality (TCEY) limits and the existing Contracting Party catch sharing arrangements are as follows, recognizing that each Contracting Party may implement more restrictive limits:

IPHC regulatory area	Fishery limits (net weight)	
	Tonnes (t)	Million pounds (Mlb) *
Area 2A (California, Oregon, and Washington)	689	1.52
Non-treaty directed commercial (south of Pt. Chehalis)	117	*257,819*
Non-treaty incidental catch in salmon troll fishery	21	*45,497*
Non-treaty incidental catch in sablefish fishery (north of Pt. Chehalis)	32	*70,000*
Treaty Indian commercial	228	*502,500*
Treaty Indian ceremonial and subsistence (year-round)	13	*29,500*
Recreational—Washington	128	*281,728*
Recreational—Oregon	133	*293,436*
Recreational—California	18	*39,520*
Area 2B (British Columbia) (combined commercial and recreational)	2,685	5.92
Commercial fishery	2,282	5.03
Recreational fishery	404	0.89
Area 2C (southeastern Alaska) (combined commercial and guided recreational)	1,978	4.36
Commercial fishery (includes 3.41 Mlb landings and 0.15 Mlb discard mortality)	1,615	3.56
Guided recreational fishery (includes landings and discard mortality)	363	0.80
Area 3A (central Gulf of Alaska) (combined commercial and guided recreational)	4,677	10.31
Commercial fishery (includes 7.84 Mlb landings and 0.58 Mlb discard mortality)	3,819	8.42
Guided recreational fishery (includes landings and discard mortality)	857	1.89
Area 3B (western Gulf of Alaska)	1,402	3.09
Area 4A (eastern Aleutians)	640	1.41
Area 4B (central and western Aleutians)	553	1.22
Areas 4CDE	916	2.02
Area 4C (Pribilof Islands)	408	0.90
Area 4D (northwestern Bering Sea)	408	0.90
Area 4E (Bering Sea flats)	100	0.22
Total	13,535	29.84

* Allocations resulting from the IPHC Regulatory Area 2A Catch Share Plan are listed in *pounds.*

6. In-Season Actions

(1) The Commission is authorized to establish or modify regulations during the season after determining that such action:

(a) will not result in exceeding the fishery limit established preseason for each IPHC Regulatory Area;

(b) is consistent with the Convention between Canada and the United States of America for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea, and applicable domestic law of either Canada or the United States of America; and

(c) is consistent, to the maximum extent practicable, with any domestic catch sharing plans or other domestic allocation programs developed by the governments of Canada or the United States of America.

(2) In-season actions may include, but are not limited to, establishment or modification of the following:

(a) closed areas;

(b) fishing periods;

(c) fishing period limits;

(d) gear restrictions;

(e) recreational (sport) bag limits;

(f) size limits; or

(g) vessel clearances.

(3) In-season changes will be effective at the time and date specified by the Commission.

(4) The Commission will announce in-season actions under this Section by providing notice to major Pacific halibut processors; Federal, State, United States of America treaty Indian, and Provincial fishery officials; and the media.

7. Careful Release of Pacific Halibut

(1) All Pacific halibut that are caught and are not retained shall be immediately released outboard of the roller and returned to the sea with a minimum of injury by:

(a) hook straightening;

(b) cutting the gangion near the hook; or

(c) carefully removing the hook by twisting it from the Pacific halibut with a gaff.

(2) Except that paragraph (1) shall not prohibit the possession of Pacific halibut on board a vessel that has been brought aboard to be measured to determine if the applicable size limit of the Pacific halibut is met and, if not legal-sized, is promptly returned to the sea with a minimum of injury.

8. Retention of Tagged Pacific Halibut

(1) Nothing contained in these Regulations prohibits any vessel at any time from retaining and landing a Pacific halibut that bears a Commission external tag at the time of capture, if the Pacific halibut with the tag still attached is reported at the time of landing and made available for examination by an authorized representative of the Commission or by an authorized officer.

(2) After examination and removal of the tag by an authorized representative of the Commission or an authorized officer, the Pacific halibut:

(a) may be retained for personal use; or

(b) may be sold only if the Pacific halibut is caught during commercial Pacific halibut fishing and complies with the other commercial fishing provisions of these Regulations.

(3) Any Pacific halibut that bears a Commission external tag will not count against commercial fishing period limits, Individual Vessel Quota (IVQ), Individual Transferable Quota (ITQ), Community Development Quota (CDQ), or Individual Fishing Quota (IFQ), and are not subject to size limits in these regulations, but should still be recorded in the landing record.

(4) Any Pacific halibut that bears a Commission external tag will not count against recreational (sport) daily bag limits or possession limits, may be retained outside of recreational (sport) fishing seasons, and are not subject to size limits in these regulations.

(5) Any Pacific halibut that bears a Commission external tag will not count against daily bag limits, possession limits, or fishery limits in the fisheries described in Section 22(1)(c), Section 23, or Section 24.

9. Commercial Fishing Periods

(1) The fishing periods for each IPHC Regulatory Area apply where the fishery limits specified in Section 5 have not been taken.

(2) Unless the Commission specifies otherwise, commercial fishing for Pacific halibut in all IPHC Regulatory Areas may begin no earlier in the year than 1200 local time on 10 March.

(3) All commercial fishing for Pacific halibut in all IPHC Regulatory Areas shall cease for the year at 1200 local time on 7 December.

(4) Regulations pertaining to the non-tribal directed commercial fishing [2] periods in IPHC Regulatory Area 2A will be promulgated by NOAA Fisheries and published in the **Federal Register**. This fishery will occur between the dates and times listed in paragraphs (2) and (3) of this Section.

(5) Notwithstanding paragraph (4) of this Section, an incidental catch fishery [3] is authorized during the sablefish seasons in IPHC Regulatory Area 2A in accordance with regulations promulgated by NOAA Fisheries. This fishery will occur between the dates and times listed in paragraphs (2) and (3) of this Section.

(6) Notwithstanding paragraph (4) of this Section, an incidental catch fishery is authorized during salmon troll seasons in IPHC Regulatory Area 2A in accordance with regulations promulgated by NOAA Fisheries. This fishery will occur between the dates and times listed in paragraphs (2) and (3) of this Section.

10. Closed Area

All waters in the Bering Sea north of 55°00′00″ N latitude in Isanotski Strait that are enclosed by a line from Cape Sarichef Light (54°36′00″ N latitude, 164°55′42″ W longitude) to a point at 56°20′00″ N latitude, 168°30′00″ W longitude; thence to a point at 58°21′25″ N latitude, 163°00′00″ W longitude; thence to Strogonof Point (56°53′18″ N latitude, 158°50′37″ W longitude); and then along the northern coasts of the Alaska Peninsula and Unimak Island to the point of origin at Cape Sarichef Light are closed to Pacific halibut fishing and no person shall fish for Pacific halibut therein or have Pacific halibut in his/her possession while in those waters except in the course of a continuous transit across those waters. All waters in Isanotski Strait between 55°00′00″ N latitude and 54°49′00″ N latitude are closed to Pacific halibut fishing.

11. Closed Periods

(1) No person shall engage in fishing for Pacific halibut in any IPHC Regulatory Area other than during the fishing periods set out in Section 9 in respect of that area.

(2) No person shall land or otherwise retain Pacific halibut caught outside a fishing period applicable to the IPHC Regulatory Area where the Pacific halibut was taken.

(3) Subject to paragraphs (7), (8), (9), and (10) of Section 17, these Regulations do not prohibit fishing for any species of fish other than Pacific halibut during the closed periods.

(4) Notwithstanding paragraph (3), no person shall have Pacific halibut in his/her possession while fishing for any

[2] The non-tribal directed commercial fishery is restricted to waters that are south of Point Chehalis, Washington, (46°53.30′ N latitude) under regulations promulgated by NOAA Fisheries and published in the **Federal Register**.

[3] The incidental fishery during the directed, fixed gear sablefish season is restricted to waters that are north of Point Chehalis, Washington, (46°53.30′ N latitude) under regulations promulgated by NOAA Fisheries at 50 CFR 300.63. Landing restrictions for Pacific halibut retention in the fixed gear sablefish fishery can be found at 50 CFR 660.231.

other species of fish during the closed periods.

(5) No vessel shall retrieve any Pacific halibut fishing gear during a closed period if the vessel has any Pacific halibut on board.

(6) A vessel that has no Pacific halibut on board may retrieve any Pacific halibut fishing gear during the closed period after the operator notifies an authorized officer or an authorized representative of the Commission prior to that retrieval.

(7) After retrieval of Pacific halibut gear in accordance with paragraph (6), the vessel shall submit to a hold inspection at the discretion of the authorized officer or an authorized representative of the Commission.

(8) No person shall retain any Pacific halibut caught on gear retrieved in accordance with paragraph (6).

(9) No person shall possess Pacific halibut on board a vessel in an IPHC Regulatory Area during a closed period unless that vessel is in continuous transit to or within a port in which that Pacific halibut may be lawfully sold.

12. Application of Commercial Fishery Limits

(1) Notwithstanding the fishery limits described in Section 5, regulations pertaining to the division of the IPHC Regulatory Area 2A fishery limit between the non-tribal directed commercial fishery and the incidental catch fishery as described in paragraphs (5) and (6) of Section 9 will be promulgated by NOAA Fisheries and published in the **Federal Register**.

(2) Notwithstanding the fishery limits described in Section 5, the IPHC Regulatory Area 2A non-tribal directed commercial fishery will close when NOAA Fisheries determines and announces in the **Federal Register** that the fishery limit has been or is projected to be reached, or on the date when fishing must cease as specified in Section 9, whichever is earlier.

(3) Notwithstanding the fishery limits described in Section 5, the commercial fishing in IPHC Regulatory Area 2B will close only when all Individual Vessel Quota (IVQ) and Individual Transferable Quota (ITQ) assigned by DFO are taken, or on the date when fishing must cease as specified in Section 9, whichever is earlier.

(4) Notwithstanding the fishery limits described in Section 5, IPHC Regulatory Areas 2C, 3A, 3B, 4A, 4B, 4C, 4D, and 4E will each close only when all Individual Fishing Quota (IFQ) and all Community Development Quota (CDQ) issued by NOAA Fisheries have been taken, or on the date when fishing must cease as specified in Section 9, whichever is earlier.

(5) Notwithstanding the fishery limits described in Section 5, the total allowable catch of Pacific halibut that may be taken in the IPHC Regulatory Area 4E directed commercial fishery is equal to the combined annual fishery limits specified for the IPHC Regulatory Areas 4D and 4E CDQ fisheries and any IPHC Regulatory Area 4D IFQ received by transfer by a CDQ organization. The annual IPHC Regulatory Area 4D fishery limit will decrease by the equivalent amount of CDQ and IFQ received by transfer by a CDQ organization taken in IPHC Regulatory Area 4E in excess of the annual IPHC Regulatory Area 4E fishery limit.

(6) Notwithstanding the fishery limits described in Section 5, the total allowable catch of Pacific halibut that may be taken in the IPHC Regulatory Area 4D directed commercial fishery is equal to the combined annual fishery limits specified for IPHC Regulatory Areas 4C and 4D. The annual IPHC Regulatory Area 4C fishery limit will decrease by the equivalent amount of Pacific halibut taken in IPHC Regulatory Area 4D in excess of the annual IPHC Regulatory Area 4D fishery limit.

13. Fishing in IPHC Regulatory Area 2A

(1) No person shall fish for Pacific halibut from a vessel, nor land or retain Pacific halibut on board a vessel, used for commercial fishing in IPHC Regulatory Area 2A, unless issued a permit valid for fishing in IPHC Regulatory Area 2A by NOAA Fisheries according to 50 CFR 300 Subpart E.

(2) It shall be unlawful for any vessel to retain more Pacific halibut than authorized by that vessel's permit in any fishing period for which a fishing period limit is announced by NOAA Fisheries in the **Federal Register**.

(3) The operator of any vessel that fishes for Pacific halibut during a fishing period when fishing period limits are in effect must, upon commencing an offload of Pacific halibut to a commercial fish processor, completely offload all Pacific halibut on board said vessel to that processor and ensure that all Pacific halibut is weighed and reported on State fish tickets.

(4) The operator of any vessel that fishes for Pacific halibut during a fishing period when fishing period limits are in effect must, upon commencing an offload of Pacific halibut other than to a commercial fish processor, completely offload all Pacific halibut on board said vessel and ensure that all Pacific halibut are weighed and reported on State fish tickets.

(5) The provisions of paragraph (4) are not intended to prevent retail over-the-side sales to individual purchasers so long as all the Pacific halibut on board is ultimately offloaded and reported.

(6) Fishing period limits in IPHC Regulatory Area 2A will be promulgated by NOAA Fisheries and published in the **Federal Register** and apply only to the non-tribal directed commercial Pacific halibut fishery referred to in paragraph (4) of Section 9.

14. Fishing in IPHC Regulatory Areas 4D and 4E

(1) Section 14 applies only to any person fishing for, or any vessel that is used to fish for, IPHC Regulatory Area 4E Community Development Quota (CDQ) Pacific halibut, IPHC Regulatory Area 4D CDQ Pacific halibut, or IPHC Regulatory Area 4D Individual Fishing Quota (IFQ) received by transfer by a CDQ organization provided that the total annual Pacific halibut catch of that person or vessel is landed at a port within IPHC Regulatory Areas 4E or 4D.

(2) A person may retain Pacific halibut taken with setline gear that are smaller than the size limit specified in Section 18, provided that no person may sell or barter such Pacific halibut.

(3) The manager of a CDQ organization that authorizes persons to harvest Pacific halibut in the IPHC Regulatory Area 4E or 4D CDQ fisheries or IFQ received by transfer by a CDQ organization must report to the Commission the total number and weight of undersized Pacific halibut taken and retained by such persons pursuant to paragraph (2) of this Section. This report, which shall include data and methodology used to collect the data, must be received by the Commission prior to 1 November of the year in which such Pacific halibut were harvested.

15. Vessel Clearance in IPHC Regulatory Area 4

(1) The operator of any vessel that fishes for Pacific halibut in IPHC Regulatory Areas 4A, 4B, 4C, or 4D must obtain a vessel clearance before fishing in any of these areas, and before the landing of any Pacific halibut caught in any of these areas, unless specifically exempted in paragraphs (10), (13), (14), (15), or (16).

(2) An operator obtaining a vessel clearance required by paragraph (1) must obtain the clearance in person from the authorized clearance personnel and sign the IPHC form documenting that a clearance was obtained, except that when the clearance is obtained via VHF radio referred to in paragraphs (5), (8), and (9), the authorized clearance

personnel must sign the IPHC form documenting that the clearance was obtained.

(3) The vessel clearance required under paragraph (1) prior to fishing in IPHC Regulatory Area 4A may be obtained only at Nazan Bay on Atka Island, Dutch Harbor, or Akutan, Alaska, from the authorized clearance personnel.

(4) The vessel clearance required under paragraph (1) prior to fishing in IPHC Regulatory Area 4B may only be obtained at Nazan Bay on Atka Island or Adak, Alaska, from the authorized clearance personnel.

(5) The vessel clearance required under paragraph (1) prior to fishing in IPHC Regulatory Area 4C or 4D may be obtained only at St. Paul or St. George, Alaska, from the authorized clearance personnel by VHF radio and allowing the person contacted to confirm visually the identity of the vessel.

(6) The vessel operator shall specify the specific regulatory area in which fishing will take place.

(7) Before unloading any Pacific halibut caught in IPHC Regulatory Area 4A, a vessel operator may obtain the clearance required under paragraph (1) only in Dutch Harbor or Akutan, Alaska, by contacting the authorized clearance personnel.

(8) Before unloading any Pacific halibut caught in IPHC Regulatory Area 4B, a vessel operator may obtain the clearance required under paragraph (1) only in Nazan Bay on Atka Island or Adak, by contacting the authorized clearance personnel by VHF radio or in person.

(9) Before unloading any Pacific halibut caught in IPHC Regulatory Areas 4C and 4D, a vessel operator may obtain the clearance required under paragraph (1) only in St. Paul, St. George, Dutch Harbor, or Akutan, Alaska, either in person or by contacting the authorized clearance personnel. The clearances obtained in St. Paul or St. George, Alaska, can be obtained by VHF radio and allowing the person contacted to confirm visually the identity of the vessel.

(10) Any vessel operator who complies with the requirements in Section 16 for possessing Pacific halibut on board a vessel that was caught in more than one regulatory area in IPHC Regulatory Area 4 is exempt from the clearance requirements of paragraph (1) of this Section, provided that:

(a) the operator of the vessel obtains a vessel clearance prior to fishing in IPHC Regulatory Area 4 in either Dutch Harbor, Akutan, St. Paul, St. George, Adak, or Nazan Bay on Atka Island by contacting the authorized clearance personnel. The clearance obtained in St. Paul, St. George, Adak, or Nazan Bay on Atka Island can be obtained by VHF radio and allowing the person contacted to confirm visually the identity of the vessel. This clearance will list the areas in which the vessel will fish; and

(b) before unloading any Pacific halibut from IPHC Regulatory Area 4, the vessel operator obtains a vessel clearance from Dutch Harbor, Akutan, St. Paul, St. George, Adak, or Nazan Bay on Atka Island by contacting the authorized clearance personnel. The clearance obtained in St. Paul or St. George can be obtained by VHF radio and allowing the person contacted to confirm visually the identity of the vessel. The clearance obtained in Adak or Nazan Bay on Atka Island can be obtained by VHF radio.

(11) Vessel clearances shall be obtained between 0600 and 1800, local time.

(12) No Pacific halibut shall be on board the vessel at the time of the clearances required prior to fishing in IPHC Regulatory Area 4.

(13) Any vessel that is used to fish for Pacific halibut only in IPHC Regulatory Area 4A and lands its total annual Pacific halibut catch at a port within IPHC Regulatory Area 4A is exempt from the clearance requirements of paragraph (1).

(14) Any vessel that is used to fish for Pacific halibut only in IPHC Regulatory Area 4B and lands its total annual Pacific halibut catch at a port within IPHC Regulatory Area 4B is exempt from the clearance requirements of paragraph (1).

(15) Any vessel that is used to fish for Pacific halibut only in IPHC Regulatory Areas 4C or 4D or 4E and lands its total annual Pacific halibut catch at a port within IPHC Regulatory Areas 4C, 4D, 4E, or the closed area defined in Section 10, is exempt from the clearance requirements of paragraph (1).

(16) Any vessel that carries a NOAA Fisheries observer, a NOAA Fisheries electronic monitoring system, or a transmitting VMS transmitter while fishing for Pacific halibut in IPHC Regulatory Areas 4A, 4B, 4C, or 4D and until all Pacific halibut caught in any of these IPHC Regulatory Areas is landed, is exempt from the clearance requirements of paragraph (1) of this Section, provided that:

(a) the operator of the vessel complies with NOAA Fisheries' observer or electronic monitoring regulations published at 50 CFR Subpart E, or vessel monitoring system regulations published at 50 CFR 679.28(f)(3), (4) and (5); and

(b) the operator of the vessel notifies NOAA Fisheries Office for Law Enforcement at 800–304–4846 (select option 1 to speak to an Enforcement Data Clerk) between the hours of 0600 and 0000 (midnight) local time within 72 hours before fishing for Pacific halibut in IPHC Regulatory Areas 4A, 4B, 4C, or 4D and receives a VMS confirmation number.

16. Fishing Multiple Regulatory Areas

(1) Except as provided in this Section, no person shall possess at the same time on board a vessel Pacific halibut caught in more than one IPHC Regulatory Area.

(2) Pacific halibut caught in more than one of the IPHC Regulatory Areas 2C, 3A, 3B, 4A, 4B, 4C, 4D, or 4E may be possessed on board a vessel at the same time only if:

(a) authorized by NOAA Fisheries regulations published at 50 CFR 679.7(f)(4); and

(b) the operator of the vessel identifies the regulatory area in which each Pacific halibut on board was caught by separating Pacific halibut from different areas in the hold, tagging Pacific halibut, or by other means.

17. Fishing Gear

(1) No person shall fish for Pacific halibut using any gear other than hook and line gear,

(a) except that a person may retain Pacific halibut taken with longline or single trap gear if such retention is authorized by DFO as defined by Pacific Fishery Regulations and Conditions of Licence; or

(b) except that a person may retain Pacific halibut taken with longline or single pot gear if such retention is authorized by NOAA Fisheries regulations published at 50 CFR part 679.

(2) No person shall possess Pacific halibut taken with any gear other than hook and line gear,

(a) except that a person may possess Pacific halibut taken with longline or single trap gear if such retention is authorized by DFO as defined by Pacific Fishery Regulations and Conditions of Licence; or

(b) except that a person may possess Pacific halibut taken with longline or single pot gear if such possession is authorized by NOAA Fisheries regulations published at 50 CFR part 679.

(3) No person shall possess Pacific halibut while on board a vessel carrying any trawl nets.

(4) All gear marker buoys carried on board or used by any United States of America vessel used for Pacific halibut

fishing shall be marked with one of the following:

(a) the vessel's State license number; or

(b) the vessel's registration number.

(5) The markings specified in paragraph (4) shall be in characters at least four inches in height and one-half inch in width in a contrasting color visible above the water and shall be maintained in legible condition.

(6) All gear marker buoys carried on board or used by a Canadian vessel used for Pacific halibut fishing shall be:

(a) floating and visible on the surface of the water; and

(b) legibly marked with the identification plate number of the vessel engaged in commercial fishing from which that setline is being operated.

(7) No person on board a vessel used to fish for any species of fish anywhere in IPHC Regulatory Area 2A during the 72-hour period immediately before the fishing period for the non-tribal directed commercial fishery shall catch or possess Pacific halibut anywhere in those waters during that Pacific halibut fishing period unless, prior to the start of the Pacific halibut fishing period, the vessel has removed its gear from the water and has either:

(a) made a landing and completely offloaded its catch of other fish; or

(b) submitted to a hold inspection by an authorized officer.

(8) No vessel used to fish for any species of fish anywhere in IPHC Regulatory Area 2A during the 72-hour period immediately before the fishing period for the non-tribal directed commercial fishery may be used to catch or possess Pacific halibut anywhere in those waters during that Pacific halibut fishing period unless, prior to the start of the Pacific halibut fishing period, the vessel has removed its gear from the water and has either:

(a) made a landing and completely offloaded its catch of other fish; or

(b) submitted to a hold inspection by an authorized officer.

(9) No person on board a vessel used to fish for any species of fish anywhere in IPHC Regulatory Areas 2B, 2C, 3A, 3B, 4A, 4B, 4C, 4D, or 4E during the 72-hour period immediately before the opening of the Pacific halibut fishing season shall catch or possess Pacific halibut anywhere in those areas until the vessel has removed all of its gear from the water and has either:

(a) made a landing and completely offloaded its entire catch of other fish; or

(b) submitted to a hold inspection by an authorized officer.

(10) No vessel used to fish for any species of fish anywhere in IPHC Regulatory Areas 2B, 2C, 3A, 3B, 4A, 4B, 4C, 4D, or 4E during the 72-hour period immediately before the opening of the Pacific halibut fishing season may be used to catch or possess Pacific halibut anywhere in those areas until the vessel has removed all of its gear from the water and has either:

(a) made a landing and completely offloaded its entire catch of other fish; or

(b) submitted to a hold inspection by an authorized officer.

(11) Notwithstanding any other provision in these Regulations, a person may retain, possess and dispose of Pacific halibut taken with trawl gear only as authorized by Prohibited Species Donation regulations of NOAA Fisheries.

18. Size Limits

(1) No person shall take or possess any Pacific halibut that:

(a) with the head on, is less than 32 inches (81.3 cm) as measured in a straight line, passing over the pectoral fin from the tip of the lower jaw with the mouth closed, to the extreme end of the middle of the tail, as illustrated in Figure 2; or

(b) with the head removed, is less than 24 inches (61.0 cm) as measured from the base of the pectoral fin at its most anterior point to the extreme end of the middle of the tail, as illustrated in Figure 2.

(2) No person on board a vessel fishing for, or tendering, Pacific halibut in any IPHC Regulatory Area shall possess any Pacific halibut that has had its head removed, except that Pacific halibut frozen at sea with its head removed may be possessed on board a vessel by persons in IPHC Regulatory Areas 2B, 2C, 3A, 3B, 4A, 4B, 4C, 4D, and 4E if authorized by Federal regulations.

(3) The size limit in paragraph (1)(b) will not be applied to any Pacific halibut that has had its head removed after the operator has landed the Pacific halibut.

19. Logs

(1) The operator of any U.S. vessel fishing for Pacific halibut that has an overall length of 26 feet (7.9 meters) or greater shall maintain an accurate log of Pacific halibut fishing operations. The operator of a vessel fishing in waters in and off Alaska must use one of the following logbooks: the Groundfish/Individual Fishing Quota (IFQ) Longline and Pot Gear Daily Fishing Logbook, in electronic or paper form, provided by NOAA Fisheries; the Alaska hook-and-line logbook provided by Petersburg Vessel Owners Association or Alaska Longline Fishermen's Association; the Alaska Department of Fish and Game (ADFG) longline-pot logbook; or the logbook provided by IPHC. The operator of a vessel fishing in IPHC Regulatory Area 2A must use either the Oregon Department of Fish and Wildlife (ODFW) Fixed Gear Logbook, Pacific Coast Groundfish non-trawl logbook provided by NOAA Fisheries, or the logbook provided by IPHC.

(2) The logbook referred to in paragraph (1) must include the following information:

(a) the name of the vessel and the State (ADFG, WDFW, ODFW, or CDFW) or Tribal ID number;

(b) the date(s) upon which the fishing gear is set or retrieved;

(c) the latitude and longitude coordinates or a direction and distance from a point of land for each set or day;

(d) the number of skates deployed or retrieved, and number of skates lost; and

(e) the total weight or number of Pacific halibut retained for each set or day.

(3) The logbook referred to in paragraph (1) shall be:

(a) maintained on board the vessel;

(b) updated not later than 24 hours after 0000 (midnight) local time for each day fished and prior to the offloading or sale of Pacific halibut taken during that fishing trip;

(c) retained for a period of two years by the owner or operator of the vessel;

(d) open to inspection by an authorized officer or an authorized representative of the Commission upon demand; and

(e) kept on board the vessel when engaged in Pacific halibut fishing, during transits to port of landing, and until the offloading of all Pacific halibut is completed.

(4) The log referred to in paragraph (1) does not apply to the incidental Pacific halibut fishery during the salmon troll season in IPHC Regulatory Area 2A defined in paragraph (6) of Section 9.

(5) The operator of any Canadian vessel fishing for Pacific halibut shall maintain an accurate record in the British Columbia Integrated Groundfish Fishing Log.

(6) The log referred to in paragraph (5) must include the following information:

(a) the name of the vessel and the DFO vessel registration number;

(b) the date(s) upon which the fishing gear is set and retrieved;

(c) the latitude and longitude coordinates for each set;

(d) the number of skates deployed or retrieved, and number of skates lost; and

(e) the total weight or number of Pacific halibut retained for each set.

(7) The log referred to in paragraph (5) shall be:

(a) maintained on board the vessel;

(b) retained for a period of two years by the owner or operator of the vessel;

(c) open to inspection by an authorized officer or an authorized representative of the Commission upon demand;

(d) kept on board the vessel when engaged in Pacific halibut fishing, during transits to port of landing, and until the offloading of all Pacific halibut is completed;

(e) submitted to the DFO within seven days of offloading; and

(f) submitted to the Commission within seven days of the final offload if not previously collected by an authorized representative of the Commission.

(8) No person shall make a false entry in a log referred to in this Section.

20. Receipt and Possession of Pacific Halibut

(1) No person shall receive Pacific halibut caught in IPHC Regulatory Area 2A from a United States of America vessel that does not have on board the permit required by Section 13(1).

(2) No person shall possess on board a vessel a Pacific halibut other than whole or with gills and entrails removed, except that this paragraph shall not prohibit the possession on board a vessel of:

(a) Pacific halibut cheeks cut from Pacific halibut caught by persons authorized to process the Pacific halibut on board in accordance with NOAA Fisheries regulations published at 50 CFR part 679;

(b) fillets from Pacific halibut offloaded in accordance with this Section that are possessed on board the harvesting vessel in the port of landing up to 1800 local time on the calendar day following the offload; [4] and

(c) Pacific halibut with their heads removed in accordance with Section 18.

(3) No person shall offload Pacific halibut from a vessel unless the gills and entrails have been removed prior to offloading.[5]

(4) It shall be the responsibility of a vessel operator who lands Pacific halibut to continuously and completely offload at a single offload site all Pacific halibut on board the vessel.

(5) A registered buyer (as that term is defined in regulations promulgated by NOAA Fisheries and codified at 50 CFR part 679) who receives Pacific halibut harvested in Individual Fishing Quota (IFQ) and Community Development Quota (CDQ) fisheries in IPHC Regulatory Areas 2C, 3A, 3B, 4A, 4B, 4C, 4D, and 4E, directly from the vessel operator that harvested such Pacific halibut must weigh all the Pacific halibut received and record the following information on Federal catch reports: date of offload; name of vessel; vessel number (State, Tribal or Federal, not IPHC vessel number); scale weight obtained at the time of offloading, including the scale weight (in pounds) of Pacific halibut purchased by the registered buyer, the scale weight (in pounds) of Pacific halibut offloaded in excess of the IFQ or CDQ, the scale weight of Pacific halibut (in pounds) retained for personal use or for future sale, and the scale weight (in pounds) of Pacific halibut discarded as unfit for human consumption. All Pacific halibut harvested in IFQ or CDQ fisheries in Areas IPHC Regulatory 2C, 3A, 3B, 4A, 4B, 4C, 4D, and 4E, must be weighed with the head on and the head-on weight must be recorded on Federal catch reports as specified in this paragraph, unless the Pacific halibut is frozen at sea and exempt from the head-on landing requirement at Section 18(2).

(6) The first recipient, commercial fish processor, or buyer in the United States of America who purchases or receives Pacific halibut directly from the vessel operator that harvested such Pacific halibut must weigh and record all Pacific halibut received and record the following information on State fish tickets: the date of offload; vessel number (State or Federal, not IPHC vessel number) or Tribal ID number; total weight obtained at the time of offload including the weight (in pounds) of Pacific halibut purchased; the weight (in pounds) of Pacific halibut offloaded in excess of the IFQ, CDQ, or fishing period limits; the weight of Pacific halibut (in pounds) retained for personal use or for future sale; and the weight (in pounds) of Pacific halibut discarded as unfit for human consumption. All Pacific halibut harvested in fisheries in IPHC Regulatory Areas 2A, 2C, 3A, 3B, 4A, 4B, 4C, 4D, and 4E must be weighed with the head on and the head-on weight must be recorded on State fish tickets as specified in this paragraph, unless the Pacific halibut is frozen at sea and exempt from the head-on landing requirement at Section 18(2).

(7) For Pacific halibut landings made in Alaska, the requirements as listed in paragraphs (5) and (6) can be met by recording the information in the Interagency Electronic Reporting Systems, eLandings, in accordance with NOAA Fisheries regulation published at 50 CFR part 679.

(8) The master or operator of a Canadian vessel that was engaged in Pacific halibut fishing must weigh and record all Pacific halibut on board said vessel at the time offloading commences and record on Provincial fish tickets or Federal catch reports: the date; locality; name of vessel; the name(s) of the person(s) from whom the Pacific halibut was purchased; and the scale weight obtained at the time of offloading of all Pacific halibut on board the vessel including the pounds purchased, pounds in excess of Individual Vessel Quota (IVQ) or Individual Transferable Quota (ITQ), pounds retained for personal use, and pounds discarded as unfit for human consumption. All Pacific halibut must be weighed with the head on and the head-on weight must be recorded on the Provincial fish tickets or Federal catch reports as specified in this paragraph, unless the Pacific halibut is frozen at sea and exempt from the head-on landing requirement at Section 18(2).

(9) No person shall make a false entry on a State or Provincial fish ticket or a Federal catch or landing report referred to in paragraphs (5), (6), and (8) of this Section.

(10) A copy of the fish tickets or catch reports referred to in paragraphs (5), (6), and (8) shall be:

(a) retained by the person making them for a period of three years from the date the fish tickets or catch reports are made; and

(b) open to inspection by an authorized officer or an authorized representative of the Commission.

(11) No person shall possess any Pacific halibut taken or retained in contravention of these Regulations.

(12) When Pacific halibut are landed to other than a commercial fish processor, the records required by paragraph (6) shall be maintained by the operator of the vessel from which that Pacific halibut was caught, in compliance with paragraph (10).

(13) No person shall tag Pacific halibut unless the tagging is authorized by IPHC or by a Federal or State agency.

21. Supervision of Unloading and Weighing

(1) The unloading and weighing of Pacific halibut may be subject to the supervision of authorized officers to assure the fulfillment of the provisions of these Regulations.

(2) The unloading and weighing of Pacific halibut may be subject to sampling by an authorized representative of the Commission.

[4] DFO has more restrictive regulations; therefore, Section 20 paragraph (2)(b) does not apply to fish caught in IPHC Regulatory Area 2B or landed in British Columbia.

[5] DFO did not adopt this regulation; therefore, Section 20 paragraph (3) does not apply to fish caught in IPHC Regulatory Area 2B.

22. Fishing by United States Indian Tribes

(1) Pacific halibut fishing in IPHC Regulatory Area Subarea 2A–1 by members of United States treaty Indian tribes located in the State of Washington shall be regulated under regulations promulgated by NOAA Fisheries and published in the **Federal Register**:

(a) Subarea 2A–1 includes the usual and accustomed fishing areas for Pacific Coast treaty tribes off the coast of Washington and all inland marine waters of Washington north of Point Chehalis (46°53.30′ N. lat.), including Puget Sound. Boundaries of a tribe's fishing area may be revised as ordered by a United States Federal court;

(b) Section 13(1) does not apply to commercial fishing for Pacific halibut in Subarea 2A–1 by Indian tribes; and

(c) ceremonial and subsistence fishing for Pacific halibut in Subarea 2A–1 is permitted with hook and line gear from 1 January through 31 December.

(2) In IPHC Regulatory Area 2C, the Metlakatla Indian Community has been authorized by the United States Government to conduct a commercial Pacific halibut fishery within the Annette Islands Reserve. Fishing periods for this fishery are announced by the Metlakatla Indian Community and the Bureau of Indian Affairs. Landings in this fishery are accounted with the commercial landings for IPHC Regulatory Area 2C.

(3) Section 7 (careful release of Pacific halibut), Section 17 (fishing gear), except paragraphs (7) and (8) of Section 17, Section 18 (size limits), Section 19 (logs), and Section 20 (receipt and possession of Pacific halibut) apply to commercial fishing for Pacific halibut by Indian tribes.

(4) Regulations in paragraph (3) of this Section that apply to State fish tickets apply to Tribal tickets that are authorized by WDFW and ADFG.

(5) Commercial fishing for Pacific halibut is permitted with hook and line gear between the dates specified in Section 9 paragraphs (2) and (3), or until the applicable fishery limit specified in Section 5 is taken, whichever occurs first.

23. Indigenous Groups Fishing for Food, Social and Ceremonial Purposes in British Columbia

(1) Fishing for Pacific halibut for food, social and ceremonial purposes by Indigenous groups in IPHC Regulatory Area 2B shall be governed by the *Fisheries Act* of Canada and regulations as amended from time to time.

24. Customary and Traditional Fishing in Alaska

(1) Customary and traditional fishing for Pacific halibut in IPHC Regulatory Areas 2C, 3A, 3B, 4A, 4B, 4C, 4D, and 4E shall be governed pursuant to regulations promulgated by NOAA Fisheries and published in 50 CFR part 300.

(2) Customary and traditional fishing is authorized from 1 January through 31 December.

25. Recreational (Sport) Fishing for Pacific Halibut—General

(1) No person shall engage in recreational (sport) fishing for Pacific halibut using gear other than a single line with no more than two hooks attached; or a spear.

(2) Any size limit promulgated under IPHC or domestic regulations shall be measured in a straight line passing over the pectoral fin from the tip of the lower jaw with the mouth closed, to the extreme end of the middle of the tail as depicted in *Figure 2.*

(3) Any Pacific halibut brought aboard a vessel and not immediately returned to the sea with a minimum of injury will be included in the daily bag limit of the person catching the Pacific halibut.

(4) No person may possess Pacific halibut on a vessel while fishing in a closed area.

(5) No Pacific halibut caught by recreational (sport) fishing shall be offered for sale, sold, traded, or bartered.

(6) No Pacific halibut caught in recreational (sport) fishing shall be possessed on board a vessel when other fish or shellfish aboard said vessel are destined for commercial use, sale, trade, or barter.

(7) The operator of a charter vessel shall be liable for any violations of these Regulations committed by an angler on board said vessel. In Alaska, the charter vessel guide, as defined in 50 CFR 300.61 and referred to in 50 CFR 300.65, 300.66, and 300.67, shall be liable for any violation of these Regulations committed by an angler on board a charter vessel.

26. Recreational (Sport) Fishing for Pacific Halibut—IPHC Regulatory Area 2A

(1) The Commission shall determine and announce closing dates to the public for any area in which the fishery limits promulgated by NOAA Fisheries are estimated to have been taken.

(2) When the Commission has determined that a subquota under paragraph (7) of this Section is estimated to have been taken, and has announced a date on which the season will close, no person shall recreational (sport) fish for Pacific halibut in that area after that date for the rest of the year, unless a reopening of that area for recreational (sport) Pacific halibut fishing is scheduled in accordance with the Catch Sharing Plan for IPHC Regulatory Area 2A, or announced by the Commission.

(3) No person shall fish for Pacific halibut from a vessel, nor land or retain Pacific halibut on board a vessel, used as a charter vessel in IPHC Regulatory Area 2A, unless issued a permit valid for fishing in IPHC Regulatory Area 2A by NOAA Fisheries according to 50 CFR 300 Subpart E.

(4) In California, Oregon, or Washington, no person shall fillet, mutilate, or otherwise disfigure a Pacific halibut in any manner that prevents the determination of minimum size or the number of fish caught, possessed, or landed.

(5) The possession limit on a vessel for Pacific halibut in the waters off the coast of Washington is the same as the daily bag limit. The possession limit for Pacific halibut on land in Washington is two daily bag limits.

(6) The possession limit on a vessel for Pacific halibut caught in the waters off the coast of Oregon is the same as the daily bag limit. The possession limit for Pacific halibut on land in Oregon is three daily bag limits.

(7) The possession limit on a vessel for Pacific halibut caught in the waters off the coast of California is one daily bag limit. The possession limit for Pacific halibut on land in California is one daily bag limit.

(8) Specific regulations describing fishing periods, fishery limits, fishing dates, and daily bag limits are promulgated by NOAA Fisheries and published in the **Federal Register**.

27. Recreational (Sport) Fishing for Pacific Halibut—IPHC Regulatory Area 2B

(1) In all waters off British Columbia:[6] [7]

(a) the recreational (sport) fishing season will open on 1 February;

(b) the recreational (sport) fishing season will close when the recreational (sport) fishery limit allocated by DFO is taken, or 31 December, whichever is earlier; and

(c) the daily bag limit is two (2) Pacific halibut of any size per day, per

[6] DFO could implement more restrictive regulations for the recreational (sport) fishery, therefore anglers are advised to check the current Federal or Provincial regulations prior to fishing.

[7] For regulations on the experimental recreational fishery implemented by DFO check the current Federal or Provincial regulations.

person, and may be increased to a daily bag limit of three (3) Pacific halibut per day, per person on or after 1 August. This provision shall remain in effect through 2025, unless extended by a vote of the Commission.

(2) In British Columbia, no person shall fillet, mutilate, or otherwise disfigure a Pacific halibut in any manner that prevents the determination of minimum size or the number of fish caught, possessed, or landed.

(3) The possession limit for Pacific halibut in the waters off the coast of British Columbia is three Pacific halibut.[6] [7]

28. Recreational (Sport) Fishing for Pacific Halibut—IPHC Regulatory Areas 2C, 3A, 3B, 4A, 4B, 4C, 4D, 4E

(1) In Convention waters in and off Alaska: [8] [9]

(a) the recreational (sport) fishing season is from 1 February to 31 December;

(b) the daily bag limit is two Pacific halibut of any size per day per person unless a more restrictive bag limit applies in Commission regulations or Federal regulations at 50 CFR 300.65;

(c) no person may possess more than two daily bag limits;

(d) no person shall possess on board a vessel, including charter vessels and pleasure craft used for fishing, Pacific halibut that have been filleted, mutilated, or otherwise disfigured in any manner, except that each Pacific halibut may be cut into no more than 2 ventral pieces, 2 dorsal pieces, and 2 cheek pieces, with a patch of skin on each piece, naturally attached. Either one dorsal piece or one ventral piece from one Pacific halibut on board may be consumed;

(e) Pacific halibut in excess of the possession limit in paragraph (1)(c) of this Section may be possessed on a vessel that does not contain recreational (sport) fishing gear, fishing rods, hand lines, or gaffs;

(f) Pacific halibut harvested on a charter vessel fishing trip in IPHC Regulatory Areas 2C or 3A must be retained on board the charter vessel on which the Pacific halibut was caught until the end of the charter vessel fishing trip as defined at 50 CFR 300.61;

(g) guided angler fish (GAF), as described at 50 CFR 300.65, may be used to allow a charter vessel angler to harvest additional Pacific halibut up to the limits in place for unguided anglers, and are exempt from the requirements in paragraphs (2) and (3) of this Section; and

(h) if there is an annual limit on the number of Pacific halibut that may be retained by a charter vessel angler as defined at 50 CFR 300.61, for purposes of enforcing the annual limit, each charter vessel angler must:

(1) maintain a nontransferable harvest record in the angler's possession if retaining a Pacific halibut for which an annual limit has been established. Such harvest record must be maintained either on the angler's State of Alaska recreational (sport) fishing license, an ADFG approved electronic harvest record, or on a Sport Fishing Harvest Record Card obtained, without charge, from ADFG offices, the ADFG website, or fishing license vendors;

(2) immediately upon retaining a Pacific halibut for which an annual limit has been established, permanently and legibly record the date, location (IPHC Regulatory Area), and species of the catch (Pacific halibut) on the harvest record; and

(3) record the information required by paragraph 1(h)(2) on any duplicate or additional recreational (sport) fishing license issued to the angler, duplicate electronic harvest record, or any duplicate or additional Sport Fishing Harvest Record Card obtained by the angler for all Pacific halibut previously retained during that year that were subject to the harvest record reporting requirements of this Section.

(2) For guided recreational (sport) fishing (as referred to in 50 CFR 300.65) in IPHC Regulatory Area 2C:

(a) no person on board a charter vessel (as referred to in 50 CFR 300.65) shall catch and retain more than one Pacific halibut per calendar day; and

(b) no person on board a charter vessel (as referred to in 50 CFR 300.65) shall catch and retain any Pacific halibut that with head on is greater than 40 inches (101.6 cm) and less than 80 inches (203.2 cm) as measured in a straight line, passing over the pectoral fin from the tip of the lower jaw with mouth closed, to the extreme end of the middle of the tail; and

(c) no person on board a charter vessel may catch and retain Pacific halibut in 2023 on any Monday from July 24–December 31.

(3) For guided recreational (sport) fishing (as referred to in 50 CFR 300.65) in IPHC Regulatory Area 3A:

(a) no person on board a charter vessel (as referred to in 50 CFR 300.65) shall catch and retain more than two Pacific halibut per calendar day;

(b) at least one of the retained Pacific halibut must have a head-on length of no more than 28 inches (71.1 cm) as measured in a straight line, passing over the pectoral fin from the tip of the lower jaw with mouth closed, to the extreme end of the middle of the tail. If a person recreational (sport) fishing on a charter vessel in IPHC Regulatory Area 3A retains only one Pacific halibut in a calendar day, that Pacific halibut may be of any length;

(c) a ''charter halibut permit'' (as referred to in 50 CFR 300.67) may only be used for one charter vessel fishing trip in which Pacific halibut are caught and retained per calendar day. A charter vessel fishing trip is defined at 50 CFR 300.61 as the time period between the first deployment of fishing gear into the water by a charter vessel angler (as defined at 50 CFR 300.61) and the offloading of one or more charter vessel anglers or any Pacific halibut from that vessel. For purposes of this trip limit, a charter vessel fishing trip ends at 2359 (Alaska local time) on the same calendar day that the fishing trip began, or when any anglers or Pacific halibut are offloaded, whichever comes first;

(d) a charter vessel on which one or more anglers catch and retain Pacific halibut may only make one charter vessel fishing trip per calendar day. A charter vessel fishing trip is defined at 50 CFR 300.61 as the time period between the first deployment of fishing gear into the water by a charter vessel angler (as defined at 50 CFR 300.61) and the offloading of one or more charter vessel anglers or any Pacific halibut from that vessel. For purposes of this trip limit, a charter vessel fishing trip ends at 2359 (Alaska local time) on the same calendar day that the fishing trip began, or when any anglers or Pacific halibut are offloaded, whichever comes first; and

(e) no person on board a charter vessel may catch and retain Pacific halibut in 2023 on any Wednesday, or on the following Tuesdays: June 20, June 27, July 4, July 11, July 18, July 25, August 1, August 8, August 15.

29. Previous Regulations Superseded

These Regulations shall supersede all previous regulations of the Commission, and these Regulations shall be effective each succeeding year until superseded.

[8] NOAA Fisheries could implement more restrictive regulations for the recreational (sport) fishery or components of it, therefore, anglers are advised to check the current Federal or State regulations prior to fishing.

[9] Charter vessels are prohibited from harvesting Pacific halibut in IPHC Regulatory Areas 2C and 3A during one charter vessel fishing trip under regulations promulgated by NOAA Fisheries at 50 CFR 300.66.

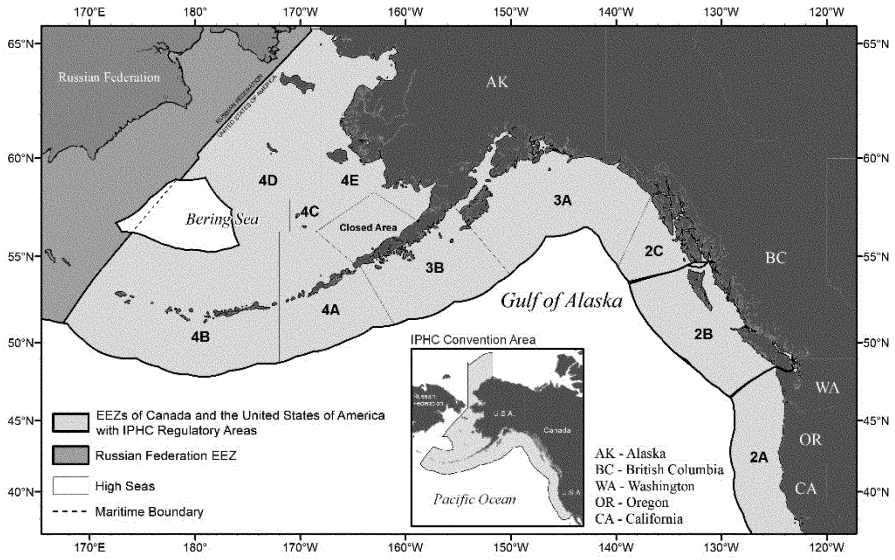

Figure 1. IPHC Regulatory Areas for the Pacific Halibut Fishery

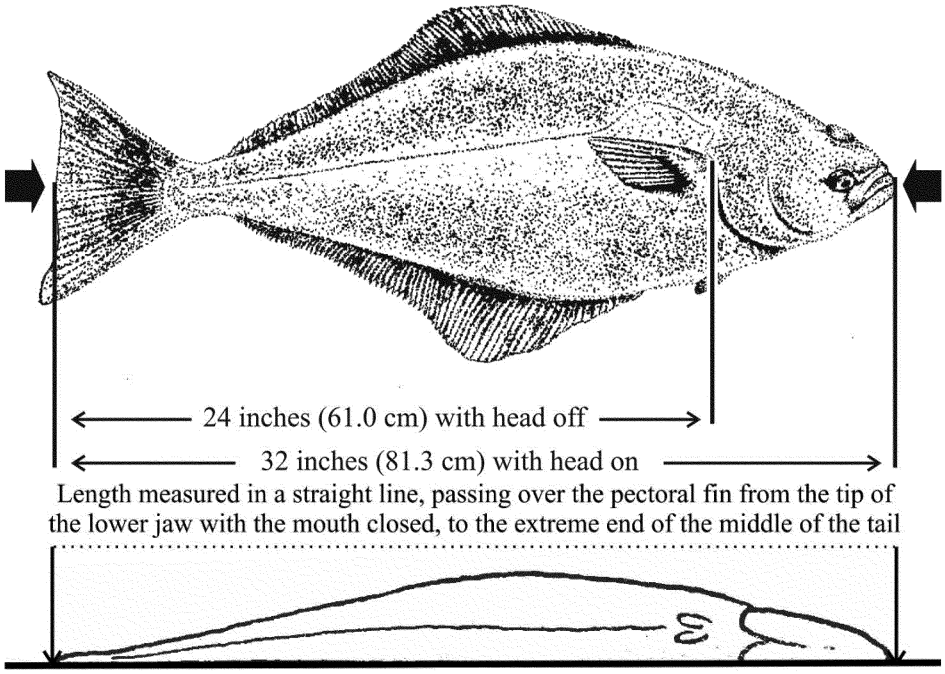

Figure 2. Minimum Commercial Size Classification

IPHC Regulations

These IPHC annual management measures are a product of an agreement between the United States and Canada and are published in the **Federal Register** to provide notice of their effectiveness and content. Pursuant to Section 4 of the Northern Pacific Halibut Act of 1982, 16 U.S.C. 773b, the Secretary of State, with the concurrence of the Secretary of Commerce, may accept or reject but not modify these recommendations of the IPHC. These regulations become effective when such acceptance and concurrence occur. The notice-and-comment and delay-in-effectiveness date provisions of the Administrative Procedure Act (APA), 5 U.S.C. 553(b) and (d), are inapplicable to IPHC management measures because these regulations involve a foreign affairs function of the United States, 5 U.S.C. 553(a)(1). As stated above, the Secretary of State has no discretion to modify the recommendations of the IPHC. The additional time necessary to comply with the notice-and-comment and delay-in-effectiveness requirements of the APA would disrupt coordinated international conservation and management of the halibut fishery pursuant to the Convention and the Northern Pacific Halibut Act of 1982.

The publication of these regulations in the **Federal Register** provide the affected public with notice that the IPHC management measures are in effect. Furthermore, no other law requires prior notice and public comment for this rule. Because 5 U.S.C.

553 or any other law does not require prior notice and an opportunity for public comment for this notice of the effectiveness of the IPHC's 2023 management measures, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.,* are not applicable. This final rule has been determined to be not significant for the purposes of Executive Order 12866.

The Paperwork Reduction Act of 1995 requires consideration of the impact of recordkeeping and other information collection burdens imposed on the public. Alaska state law establishes information collection requirements regarding harvest records for individual recreational anglers. See Alaska Admin. Code tit. 5, § 75.006(a) (2023). This final rule contains no new recordkeeping requirements beyond those contained in existing Alaska state or federal law and therefore involves no additional collection of information burden. Moreover, because there is, at present, no annual limit on the number of Pacific halibut that may be retained by a charter vessel angler as defined at 50 CFR 300.61, the recordkeeping requirements referenced in section 29(1)(h) of the IPHC's Annual Management Measures do not apply during 2023.

Authority: 16 U.S.C. 773 *et seq.*

Dated: March 1, 2023.

Samuel D. Rauch, III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 2023–04598 Filed 3–6–23; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 665

[Docket No. 230227–0056]

RIN 0648–BL35

Pacific Island Fisheries; 2022–2025 Annual Catch Limits and Accountability Measures for Main Hawaiian Islands Deepwater Shrimp and Precious Coral Fisheries

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

ACTION: Final rule.

SUMMARY: In this final rule, NMFS implements annual catch limits (ACL) and accountability measures (AM) for main Hawaiian Islands (MHI) deepwater shrimp and precious coral for each fishing year in the time period between 2022 and 2025. As a post-season AM, if NMFS determines that the average total catch from the most recent 3 fishing years exceeded an ACL in a fishing year, we would reduce the ACL for the following fishing year by the amount of the overage. Although the 2022 fishing year for deepwater shrimp has ended, we will evaluate 2022 catches against the final ACL when data become available. This final rule supports the long-term sustainability of MHI deepwater shrimp and precious coral.

DATES: The final rule is effective April 6, 2023. The final ACLs and AMs are applicable for fishing years from January 1, 2022 through December 31, 2025 for deepwater shrimp and July 1, 2022 through June 30, 2025 for precious coral.

ADDRESSES: Copies of the Fishery Ecosystem Plan for the Hawaii Archipelago (FEP) are available from the Western Pacific Fishery Management Council (Council), 1164 Bishop St., Suite 1400, Honolulu, HI 96813, tel. 808–522–8220, fax 808–522–8226, or *https://www.wpcouncil.org.*

Copies of the environmental analyses and other supporting documents for this action are available from *https://www.regulations.gov/docket/NOAA-NMFS-2022-0113,* or from Sarah Malloy, Acting Regional Administrator, NMFS Pacific Islands Regional Office (PIRO), 1845 Wasp Blvd. Bldg. 176, Honolulu, HI 96818.

FOR FURTHER INFORMATION CONTACT: Keith Kamikawa, NMFS PIRO Sustainable Fisheries, 808–725–5177.

SUPPLEMENTARY INFORMATION: NMFS and the Council manage fisheries in the U.S. Exclusive Economic Zone (EEZ, or Federal waters) around Hawaii under the Fishery Ecosystem Plan for the Hawaiian Archipelago, as authorized by the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), with regulations at 50 CFR part 665. The FEP contains a process for the Council and NMFS to specify ACLs and AMs, codified at 50 CFR 665.4. NMFS must specify ACLs and AMs for each stock and stock complex of management unit species (MUS) in an FEP, as recommended by the Council and considering the best available scientific, commercial, and other information about the fishery. If a fishery exceeds an ACL, the regulations require the Council to take action, which may include an AM reducing the ACL for the subsequent fishing year by the amount of the overage, or other appropriate action.

This rule would establish the following ACLs for MHI deepwater shrimp and precious coral for each fishing year in the time period between 2022 and 2025 and they are consistent with past ACLs for these fisheries:

TABLE 1—ANNUAL CATCH LIMITS FOR MAIN HAWAIIAN ISLANDS DEEPWATER SHRIMP AND PRECIOUS CORALS FOR EACH FISHING YEAR IN THE TIME PERIOD BETWEEN 2022 AND 2025

Fishery	Stock	ACL (lb)
Crustacean	Deepwater shrimp	250,773
Precious Coral	Auau Channel—Black coral	5,512
Precious Coral	Makapuu Bed—Pink and red coral	2,205
Precious Coral	Makapuu Bed—Bamboo coral	551
Precious Coral	180 Fathom Bank—Pink and red coral	489
Precious Coral	180 Fathom Bank—Bamboo coral	123
Precious Coral	Brooks Bank—Pink and red coral	979
Precious Coral	Brooks Bank—Bamboo coral	245
Precious Coral	Kaena Point Bed—Pink and red coral	148
Precious Coral	Kaena Point Bed—Bamboo coral	37
Precious Coral	Keahole Bed—Pink and red coral	148
Precious Coral	Keahole Bed—Bamboo coral	37
Precious Coral	Hawaii Exploratory Area—precious coral	2,205

This rule is consistent with recommendations made by the Council at its March 2022 meeting. The Council recommended that NMFS implement ACLs and AMs for all subject stocks for each fishing year in the time period between 2022 and 2025.

The fishing year is the calendar year for deepwater shrimp and July 1 through June 30 for precious coral. As a post-season AM for each stock, NMFS and the Council will evaluate the catch after each fishing year relative to the ACL. If NMFS and the Council determine the average catch of the 3 most recent fishing years exceeds an ACL, NMFS will reduce the ACL for the subsequent fishing year through a separate rulemaking. These 2022–2025 ACLs are unchanged from past deepwater shrimp and precious coral ACLs and the subject fisheries have not caught their specified ACLs in any year since the ACLs were first implemented in 2012. There are currently three active Federal permits for the deepwater shrimp fishery and none for precious coral.

Comments and Response

No comments were received on the proposed rule during the public comment period.

Changes From the Proposed Rule

The final rule contains no changes from the proposed rule.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this final rule is consistent with the FEP, other provisions of the Magnuson-Stevens Act, and other applicable laws.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. NMFS received no comments regarding this certification. As a result, a regulatory flexibility analysis was not required and none was prepared.

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

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

List of Subjects in 50 CFR Part 665

Accountability measures, Annual catch limits, Deepwater shrimp, Precious coral, Fisheries, Fishing, Hawaii, Pacific Islands.

Dated: February 27, 2023.

Samuel D. Rauch, III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, NMFS amends 50 CFR part 665 as follows:

PART 665—FISHERIES IN THE WESTERN PACIFIC

■ 1. The authority citation for 50 CFR part 665 continues to read as follows:

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

■ 2. In § 665.253, revise paragraph (a)(1) to read as follows:

§ 665.253 Annual Catch Limits (ACL) and Annual Catch Targets (ACT).

(a) *Deepwater shrimp.* (1) In accordance with § 665.4, the ACLs for each fishing year are as follows:

TABLE 1 TO PARAGRAPH (a)(1)

Fishing year	2022	2023	2024	2025
ACL (lb)	250,773	250,773	250,773	250,773

* * * * *

■ 3. In § 665.269, revise paragraph (c) to read as follows:

§ 665.269 Annual Catch Limits (ACL).

* * * * *

(c) *Precious coral.* In accordance with § 665.4, the ACLs for MHI precious coral permit areas for each fishing year are as follows:

TABLE 1 TO PARAGRAPH (c)

Type of coral bed	Area and coral group	2022–23 ACL (lb)	2023–24 ACL (lb)	2024–25 ACL (lb)
Established bed	Auau Channel—Black coral	5,512	5,512	5,512
	Makapuu Bed—Pink and red coral	2,205	2,205	2,205
	Makapuu Bed—Bamboo coral	551	551	551
Conditional Beds	180 Fathom Bank—Pink and red coral	489	489	489
	180 Fathom Bank—Bamboo coral	123	123	123
	Brooks Bank—Pink and red coral	979	979	979
	Brooks Bank—Bamboo coral	245	245	245
	Kaena Point Bed—Pink and red coral	148	148	148
	Kaena Point Bed—Bamboo coral	37	37	37
	Keahole Bed—Pink and red coral	148	148	148
	Keahole Bed—Bamboo coral	37	37	37
Exploratory Area	Hawaii—precious coral	2,205	2,205	2,205

* * * * *

[FR Doc. 2023–04359 Filed 3–6–23; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 88, No. 44
Tuesday, March 7, 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 AGRICULTURE

Agricultural Marketing Service

7 CFR Part 984

[Docket No. 22–J–0011; AMS–SC–22–0010; SC22–981–1]

Walnuts Grown in California; Secretary's Decision and Referendum Order on Proposed Amendments to Marketing Order No. 984

AGENCY: Agricultural Marketing Service, Department of Agriculture (USDA).

ACTION: Proposed rule and referendum order.

SUMMARY: This decision proposes amendments to Marketing Order No. 984 (Order), which regulates the handling of walnuts grown in California, and provides growers with the opportunity to vote in a referendum to determine if they favor the changes. The California Walnut Board (Board), which locally administers the Order, recommended proposed amendments that would eliminate mandatory inspection and certification of inshell and shelled walnuts, and of shelled walnuts for processing; create a new mechanism for determining and collecting handler assessments; add authority to charge interest for late payments; establish an assessment rate of $0.0125 per inshell pound of walnuts; expand the definition of ''to handle'' to include ''receive''; and remove volume control authority. In addition, the Agricultural Marketing Service (AMS) proposed to make any such changes to the Order as may be necessary to conform to any amendment that may result from the hearing.

DATES: The referendum will be conducted from April 3 through April 21, 2023. The representative period for the purpose of the referendum is September 1, 2021, through August 31, 2022.

ADDRESSES: Market Development Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, Stop 0237, Washington, DC 20250–0237.

FOR FURTHER INFORMATION CONTACT: Geronimo Quinones, Market Development Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, Stop 0237, Washington, DC 20250–0237; Telephone: (202) 308–2339 or Matthew Pavone, Market Development Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, Stop 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, or Email: *Geronimo.Quinones@usda.gov* or *Matthew.Pavone@usda.gov.*

Small businesses may request information on this proceeding by contacting Richard E. Lower, Market Development Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, Stop 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, or Email: *Richard.Lower@usda.gov.*

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding: Notice of Hearing published in the April 1, 2022, issue of the **Federal Register** (87 FR 19020) and a Recommended Decision published in the October 25, 2022, issue of the **Federal Register** (87 FR 64385).

This action is governed by the provisions of sections 556 and 557 of title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Orders 12866, 13563, and 13175.

Notice of this rulemaking action was provided to tribal governments through the Department of Agriculture's (USDA) Office of Tribal Relations.

Preliminary Statement

This decision is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act,'' and the applicable rules of practice and procedure governing the formulation and amendment of marketing agreements and orders (7 CFR part 900).

The proposed amendments in this decision are based on the record of a public hearing held via videoconference technology on April 19 and 20, 2022. Notice of this hearing was published in the **Federal Register** on April 1, 2022 (87 FR 19020). The Notice of Hearing contained five proposals submitted by the Board and one submitted by USDA.

The amendments proposed by the Board would amend quality control provisions to remove inspection and certification requirements, create a new mechanism for determining and collecting handler assessments, add authority to charge interest for late payments, establish an assessment rate of $0.0125 per inshell pound of walnuts; expand the definition of ''to handle'' to include ''receive'', and remove volume control authority.

The California walnut industry entered into a marketing order in 1948 to establish minimum quality requirements as a way to ensure industrial buyers and consumers have access to a reliable and consistent supply of wholesome walnuts. The Dried Fruit Association was the agency named in the marketing order as the agency responsible for performing grading services. Over time, buyer specifications and end-user requirements exceeded U.S. grade standards, making federally mandated inspection services duplicative. The California walnut industry seeks to streamline its handling operations by eliminating outgoing inspections and focusing on increasing consumption through promotion and market-building.

USDA proposed to make any such changes as may be necessary to the Order to conform to any amendment that may be adopted, or to correct minor inconsistencies and typographical errors. Accordingly, USDA recommended the following changes in the Recommended Decision: adding language regarding exemptions to § 984.67; removing the references to ''merchantable'' walnuts in §§ 984.22,984.72, and 984.472(a) and (c); revising the heading in § 984.21; revising §§ 984.69(e) and 984.89(b)(4) to replace the term ''fiscal period'' with ''marketing year''; and revising the assessment rate provided in § 984.347.

Currently, § 984.67(b)(1) of the Code of Federal Regulations is missing language pertaining to two exemptions from assessments and quality regulations—specifically for green walnuts and walnuts directed to noncompetitive outlets. USDA determined that the language missing was inadvertently omitted in a prior rulemaking conducted in May 2020 and recommended that the missing language be added back to § 984.67. This recommendation was discussed at the

hearing and all witnesses testified in support of adding the language back to § 984.67.

In § 984.11, ''merchantable walnuts'' are defined as ''walnuts meeting the minimum grade and size regulations effective pursuant to § 984.50.'' USDA has determined that if the proposed amendment to remove inspection and certification requirements is implemented, there would be no grade and size regulations in effect to distinguish ''merchantable'' walnuts from other walnuts. Witnesses at the hearing testified that this was their understanding of the effect of the proposed amendment and testified in favor of removing numerous references to the term ''merchantable'' in various sections, including § 984.48. Similarly, witnesses also supported amendment of § 984.472(b) to ensure that reporting requirements for shipped walnuts would continue. Accordingly, USDA proposed that references to ''merchantable'' be removed from other reporting requirements to ensure that appropriate reporting requirements continue to be in place.

Section 984.50 would continue to provide authority for grade, quality, and size regulations if such regulations are warranted in the future. If specific grade, quality, and size regulations are promulgated and implemented in the future, the term ''merchantable walnuts,'' defined as ''walnuts meeting the minimum grade and size regulations effective pursuant to § 984.50,'' would once again have meaning and effect. Accordingly, the definition for ''merchantable walnuts'' and other sections that reference the word ''merchantable'' in the Order would not be affected by the proposed amendments. Specifically, §§ 984.11, 984.12, and 984.64 would continue to reference ''merchantable walnuts.''

In addition, as noted in both the Notice of Hearing and the Recommended Decision, USDA recommended a clarifying change to the heading of § 984.21. USDA has determined that the heading, currently ''Eligibility,'' does not reflect the purposes of the provision, which defines handler inventory. Accordingly, USDA proposed to rename the section ''Handler inventory.''

USDA also proposed to revise §§ 989.69(e) and 984.89(b)(4) to replace the term ''fiscal period'' with ''marketing year.'' The term ''fiscal period'' is not defined in the Order, whereas ''marketing year'' is defined and already used throughout the Order. USDA recommended this change to add clarity to the Order.

To conform with changes to the assessment mechanism, which would assess handlers on walnut receipts instead of inspected and certified volumes, the industry recommended revising the handler assessment rate in the regulations to reflect dollars per inshell pound of walnuts.

Additionally, as discussed in the Recommended Decision, there was an error in the proposed revision to § 984.347 in the Notice of Hearing, in which the proposed assessment rate was listed as $.125 per inshell pound. Witnesses at the hearing testified that the assessment rate should be $.0125 per inshell pound, and the Recommended Decision and this decision reflect the correct rate.

Upon the basis of evidence introduced at the hearing and the record thereof, the Administrator of AMS on November 4, 2022, filed with the Hearing Clerk, USDA, a Recommended Decision and Opportunity to File Written Exceptions thereto by November 25, 2022. No exceptions were filed.

USDA has subsequently identified an additional conforming change to the proposed regulatory language published in the Recommended Decision. In 7 CFR 984.69(d), the text currently refers to permitting advanced assessments when assessments based on the ''current season's certifications'' are not yet available. Because § 984.51 would be removed and assessments would no longer be based on certifications, the language in proposed § 984.69(e) has been modified to refer to ''assessments for the current marketing year.'' The regulatory text included in this Secretary's Decision reflects this change.

Regulatory Flexibility Analysis

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA), AMS has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions so that small businesses will not be unduly or disproportionately burdened. Marketing orders and amendments thereto are unique in that they are normally brought about through group action of essentially small entities for their own benefit.

During the hearing held April 19 and 20, 2022, interested parties were invited to present evidence on the probable regulatory impact on small businesses of the proposed amendments to the Order. The evidence presented at the hearing shows that the proposed amendments would not have a significant negative economic impact on a substantial number of small agricultural producers or handlers.

A small handler, as defined by the Small Business Administration (SBA) (13 CFR 121.201), is one that grosses less than $30 million annually. A small walnut producer is one that grosses less than $3.25 million annually.

Effective May 2, 2022, SBA issued a final rule updating small business size standards for agriculture (86 FR 18607). The tree nut farming (NAICS 111335) size standard changed from $1 million to $3.25 million. The witnesses who identified themselves as small producers did so using the SBA size standard in effect at the time of the hearing ($1.0 million of gross annual receipts); they are also small under the new standard of $3.25 million of gross annual receipts.

A total of nine witnesses testified at the hearing. Of the nine witnesses, seven appeared and offered testimony as growers or handlers. Five of these seven witnesses were growers, and four of the five grower witnesses were also handlers. Two of five grower witnesses testified that they were small walnut growers according to the former SBA definition of $1.0 million, and three were large.

Of the six handler witnesses, two were small and four were large. Of the four grower witnesses who were also handlers, one was a small handler, and three were large. There were two additional handler witnesses, one small and one large.

Of the remaining two witnesses, one testified from the perspective of academia and the other witness testified as a representative of the California Walnut Board.

All witnesses expressed their support for the proposed amendments and stated that they expect to see significant benefits (cost savings) from the amendments.

Walnut Industry Background and Overview

According to the hearing record, there are approximately 4,500 producers and 85 handlers in the production area. Record evidence includes reference to a study showing that the walnut industry contributes 85,000 jobs to the economy, directly and indirectly.

Record evidence showed that approximately 82 percent of California's walnut handlers (70 out of 85) shipped merchantable walnuts valued under $30 million during the 2018–2019 marketing year and would therefore be considered small handlers according to the SBA definition.

Data in the hearing record from the 2017 Agricultural Census, published by USDA'S National Agricultural Statistics Service (NASS), showed that 86 percent of the California farms growing walnuts had walnut sales of less than $1 million. In the 2017 Agricultural Census, the largest sales value size category for walnuts was $1.0 million.

To estimate the percentage of small walnut farms, using NASS data from the hearing record, the first step was computing a 3-year average crop value, which was roughly $1.077 billion for the period 2018–19 to 2020–21. The average walnut-bearing acreage over that same 3-year period was 372,500 acres. Dividing crop value by bearing acreage shows a per-acre revenue estimate of $2,892. Using these numbers, it would take approximately 1,124 acres ($3,250,000 divided by $2,892) to yield roughly $3,250,000 in annual walnut sales. The 2017 Agricultural Census data show that 94 percent of walnut farms in 2017 were below 1,000 acres. Therefore, 94 percent or more of California walnut farms would be considered small businesses according to the current SBA definition of $3.25 million in gross annual receipts.

Hearing evidence showed that the period from walnut tree planting to production ranges from 5 to 7 years, and that production levels each year are somewhat affected by the alternate bearing tendency. The pricing downturn that began in 2015 somewhat diminished the rate of new plantings, but about 36,000 previously planted acres are expected to come into production in the next 3 years (2023 to 2026). These are high-yield varieties, and therefore the new acres are expected to be more productive than the walnut acreage being removed.

According to the record, generally all domestic production of walnuts is grown in California's Central Valley region, which includes the Sacramento Valley in the north and the San Joaquin Valley in the south. The San Joaquin Valley is one of only five major Mediterranean-type climates in the world that are ideal for growing nuts. Over the past 10 years, walnut acreage has migrated north for better water availability. Production in the northern part of the Central Valley is expected to grow significantly, and the proportion of total production in the south is expected to decline.

Walnut trees bloom in the spring, and the harvest for early varieties starts in September. Harvesting for later varieties starts in October and sometimes continues into November. As soon as the nuts are harvested, they must be hulled (removal of the green husk) and dried. Freshly harvested nuts have too high a moisture content for long-term storage, and they need to be hulled and dried quickly to preserve quality and to minimize mold and rancidity. Growers still own the nut at this point, according to hearing evidence.

The processor (handler) then buys the nuts based on the cleaned, hulled, and dried weight. The handlers process and store them before and after the value-added steps and before shipping them into distribution channels.

Once received by the handler, the walnuts go into refrigerated or bulk storage, depending on the type of product that the handler intends to produce. Smaller lots, such as for minor varieties, are put into bin storage. Once the walnuts are warehoused and fumigated to eliminate insects, a sample is taken to determine the value of the product to the producer. The walnuts are tested for kernel content, edible kernel content, defect levels, and color. The lighter the color, the greater the value. The three predominant colors are light, light amber, and amber.

The shelling process removes most of the shell, typically leaving about 98 percent kernel and 2 percent shell. The resulting lot has nuts with a mixture of colors and approximately six different sizes, ranging from eight-of-an-inch square up to a half kernel.

Walnuts generally have a 12-month shelf life, which can be moderately increased through improved storage conditions and may be reduced if storage conditions are not ideal. Cold storage has facilitated year-round sales and marketing. Witnesses stated that advancements in processing and packaging technologies continue to improve product quality, consistency, and shelf life.

Some packaging methods, including vacuum packing, will increase shelf life and help maintain quality. Walnuts can also be pasteurized to reduce pathogens. Modified atmosphere storage requires substantial capital, including automation of storage chamber loading and unloading because the low oxygen environment is dangerous for forklift drivers.

On the handler processing lines, key pieces of equipment are laser sorters and optical camera sorters, which can sort by color and shape. Broad spectrum analyses (using infrared and ultraviolet light) are increasingly effective at identifying defects. Mechanical air injection systems use jets of air to remove individual nuts identified as defective.

A key factor in quality improvement are new varieties, including Chandler, Howard, Pillory, Ivanhoe, and Sawano.[1] With these varieties, shell removal is much easier, leaving far fewer fragments and pieces. Recent technology improvements have also greatly reduced the incidence of foreign material and shell pieces to a level that is far below what is allowed under USDA standards, which were established decades earlier.

With the new varieties, the kernel color is much lighter, and the nuts are larger. In addition, advances in processing equipment produce a much higher percentage of ''pristine halves.'' Witnesses testified that these three key characteristics yield more money to industry stakeholders but are not accounted for in USDA standards.

According to hearing evidence, prior to the moratorium on the enforcement of mandatory inspection requirements that began on September 1, 2021, inspections for large volume handlers were typically performed by inspectors employed by the Dried Fruit Association (DFA), which is the Board's inspection agency of record, working from a space close to their own quality assurance (QA) staff. DFA conducted quality tests from in-line samples with processes that largely paralleled those of the handler QA staff, but DFA applied the less stringent USDA standards. For smaller volume handlers, DFA staff tested nuts based on samples from packaged products on the packing floor (floor inspection). For the mandatory outbound inspection, no product could leave the processing facility without USDA certification issued by DFA.

Before USDA implemented the inspection moratorium, operational inefficiencies for handlers included sometimes having to wait for qualified DFA inspection staff to show up to certify lots in a timely manner, adding to an already challenging shipping environment. Hearing evidence suggests that the elimination of mandatory inspections and being able to self-certify according to customer specifications that are more stringent than USDA standards would be a significant benefit of the proposed changes to handlers of all sizes. Some handlers may continue to use DFA inspection services for quality control; however, hearing evidence shows the industry is undergoing a transition away from the traditional practice of third-party inspections for greater cost savings.

According to the record, the elimination of mandatory inspection and certification prevents the Board

[1] The Chandler variety comprises 58 percent of total walnut production. Three varieties (Chandler, Howard, and Tulare) make up 85 percent of total walnut volume.

from collecting assessments under the current regulations. The proposed new assessment mechanism would be based on walnuts received instead of walnuts certified, and would allow the Board to resume collecting assessments. Witnesses reported that the proposed amendment to collect handler assessments in three installments (to be paid in February, May, and August) rather than in monthly installments as currently provided under the order, would further improve operational efficiency and reduce paperwork burden for handlers.

In summary, hearing evidence points to major technological improvements in sorting, processing, and storage—and to the adoption of new varieties—as key evidence of how current industry practices result in walnut quality that exceeds USDA standards, making mandatory outgoing inspection unnecessary.

Estimated Economic Impact of Eliminating Mandatory Inspection

A key economic impact of the marketing order amendment is the cost reduction to industry stakeholders associated with eliminating mandatory inspection. Hearing evidence showed that an estimate of the mandatory inspection cost, pre-moratorium, is approximately $6 million per year.

Table 2 illustrates the inspection cost estimate. Multiplying the total quantity of California walnuts marketed in 2020 (783,500 tons) times the average inspection cost of $7.7024 per ton yields the total annual mandatory inspection cost estimate of $6,034,830 shown in Table 2. These numbers represent the costs incurred by handlers for the inspection services supplied by DFA.

The proportion of the crop marketed as inshell and shelled are 42 and 58 percent, respectively. These proportions are used to show how the $6.035 million inspection cost is allocated to the inshell and shelled portions of the total U.S. walnut market.

TABLE 2—ESTIMATED ANNUAL COST MANDATORY WALNUT INSPECTION [1]

	Inshell	Shelled	Total	Computational detail	
Share of sales (%)	42%	58%	100%	A	
Volume (tons)	329,070	454,430	783,500	B	A * total volume
Inspection Cost ($ per ton) [2]	$6.09	$8.87	$7.7024	C	
Total inspection cost [2]	$2,004,036	$4,030,794	$6,034,830	D	B * C

[1] This table is based on Exhibit 16A of the walnut marketing order amendment hearing, which used data supplied by California Walnut Board.
[2] Total inspection cost of $6,034,830 in this table is the sum of the inshell and shelled cost and represents a slight upward adjustment from the total cost figure of $6,032,950 in hearing Exhibit 16A. This revised total cost figure was used to compute a revised inspection cost per ton of $7.7024, representing an average industry cost, combining inshell and shelled. This is slightly higher than the $7.70 cost figure presented in Exhibit 16A.

Hearing evidence also pointed to other benefits, such as lower indirect costs to handlers. Witnesses stated that handlers would benefit from reduced operational process redundancies, resulting in lower associated costs and administrative burdens. An additional efficiency for handlers is that the proposed new marketing order assessment mechanism utilizes the same process already in use by handlers for their payment to the California Walnut Commission.

In addition, producers may also benefit from higher grower returns through cost savings passed on from increased handler efficiencies.

The record shows that there would be no negative quality implications from implementing the proposed amendments, and consumers already benefit from California walnut quality that surpasses USDA grade standards. Consumers may also benefit from lower prices resulting from reduced handler costs. If the proposed amendments and accompanying conforming changes were implemented, both benefits and costs savings could be anticipated. For the reasons described above, it is determined that the benefits of eliminating mandatory inspection and certification of inshelled and shelled walnuts, and of shelled walnuts for processing; creating a new mechanism for determining and collecting handler assessments; adding authority to charge interest for late payments; establishing an assessment rate of $0.0125 per inshell pound of walnuts; expanding the definition of ''to handle'' to include ''receive'', and removing volume control authority would modernize and align the Order with current market-driven practices that would result in a more efficient industry.

USDA has not identified any relevant Federal rules that duplicate, overlap or conflict with this proposed rule. These amendments are intended to improve the operation and administration of the Order and to assist in the marketing of California walnuts.

Board meetings regarding these proposals, as well as the hearing date and location, were widely publicized throughout the California walnut industry, and all interested persons were invited to attend the meetings and the hearing to participate in Board deliberations on all issues. All Board meetings and the hearing were public forums, and all entities, both large and small, were able to express views on these issues. Interested persons are invited to submit information on the regulatory impacts of this action on small businesses.

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

Paperwork Reduction Act

Current information collection requirements that are part of the Federal marketing order for California walnuts (7 CFR part 984) are approved under OMB No. 0581–0178 Vegetables and Specialty Crops. No changes in these requirements are anticipated because of this proceeding. Should any such changes become necessary, they would be submitted to OMB for approval.

As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

Civil Justice Reform

The amendments to the Order proposed herein have been reviewed under Executive Order 12988, Civil Justice Reform. They are not intended to have retroactive effect. If adopted, the proposed amendments would not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this proposal.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under § 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing, USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed no later than 20 days after the date of entry of the ruling.

Findings and Conclusions

The findings and conclusions, rulings, and general findings and determinations included in the Recommended Decision set forth in the October 25, 2022, issue of the **Federal Register** (87 FR 64385), and as revised in this Secretary's Decision, are hereby approved and adopted.

Marketing Order

Annexed hereto and made a part hereof is the document entitled ''Order Amending the Order Regulating the Handling of Walnuts Grown in California.'' This document has been decided upon as the detailed and appropriate means of effectuating the foregoing findings and conclusions.

It is hereby ordered that this entire decision be published in the **Federal Register**.

Referendum Order

It is hereby directed that a referendum be conducted in accordance with the procedure for the conduct of referenda (7 CFR 900.400 through 900.407) to determine whether the annexed order amending the order regulating the handling of walnuts grown in California is approved or favored by growers, as defined under the terms of the order, who during the representative period were engaged in the production of walnuts in the production area. The referendum dates are April 3 through April 21, 2023. The representative period for the conduct of such referendum is hereby determined to be September 1, 2021, through August 31, 2022.

The agents of the Secretary to conduct such referendum are hereby designated to be Joshua R. Wilde, Marketing Specialist, and Gary Olson, Regional Director, Western Region Branch, Market Development Division, Specialty Crops Program, AMS, USDA; Telephone: (503) 326–2724 or Email: *Joshua.R.Wilde@usda.gov* or *GaryD.Olson@usda.gov,* respectively.

Order Amending the Order Regulating the Handling of Walnuts Grown in California [2]

Findings and Determinations

The findings and determinations hereinafter set forth are supplementary to the findings and determinations that were previously made in connection with the issuance of the marketing order; and all said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) Findings and Determinations Upon the Basis of the Hearing Record

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and the applicable rules of practice and procedure effective thereunder (7 CFR part 900), a public hearing was held upon proposed further amendment of Marketing Order No. 984, regulating the handling of walnuts grown in California.

Upon the basis of the record, it is found that:

(1) The marketing order, as amended, and as hereby proposed to be further amended, and all of the terms and conditions thereof, would tend to effectuate the declared policy of the Act;

(2) The marketing order, as amended, and as hereby proposed to be further amended, regulates the handling of walnuts grown in the production area in the same manner as, and is applicable only to, persons in the respective classes of commercial and industrial activity specified in the marketing order upon which a hearing has been held;

(3) The marketing order, as amended, and as hereby proposed to be further amended, is limited in its application to the smallest regional production area that is practicable, consistent with carrying out the declared policy of the Act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the Act;

(4) The marketing order, as amended, and as hereby proposed to be further amended, prescribes, insofar as practicable, such different terms applicable to different parts of the production area as are necessary to give due recognition to the differences in the production and marketing of walnuts grown in California; and

(5) All handling of walnuts grown in the production area as defined in the marketing order is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

Order Relative to Handling

It is therefore ordered, that on and after the effective date hereof, all handling of walnuts grown in California shall be in conformity to, and in compliance with, the terms and conditions of the said order as hereby proposed to be amended as follows:

The provisions of the proposed marketing order amending the order contained in the Recommended Decision published in the October 25, 2022, issue of the **Federal Register** (87 FR 64385), and as revised in this Secretary's Decision, will be and are the terms and provisions of this order amending the order and are set forth in full herein.

List of Subjects in 7 CFR Part 984

Marketing agreements, Nuts, Reporting and recordkeeping requirements.

Recommended Further Amendment of the Marketing Order

For the reasons set out in the preamble, 7 CFR part 984 is proposed to be amended as follows:

PART 984—WALNUTS GROWN IN CALIFORNIA

■ 1. The authority citation for 7 CFR part 984 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. Revise 984.12 to read as follows:

§ 984.12 Substandard walnuts.

Substandard walnuts means all walnuts (whether inshell or shelled) that do not meet the minimum standard prescribed for merchantable walnuts whenever regulations are in effect pursuant to § 984.50.

■ 3. Revise § 984.13 to read as follows:

§ 984.13 To handle.

To handle means to receive, pack, sell, consign, transport, or ship (except as a common or contract carrier of walnuts owned by another person), or in any other way to put walnuts, inshell or shelled, into the current of commerce either within the area of production or

[2] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

from such area to any point outside thereof, or for a manufacturer or retailer within the area of production to purchase directly from a grower. However, sales and deliveries by a grower to handlers, hullers, or other processors within the area of production shall not, in itself, be considered as handling by a grower. The term ''to handle'' shall not include sales and deliveries within the area of production between handlers.

■ 4. Amend § 984.21 by revising the section heading to read as follows:

§ 984.21 Handler inventory.

* * * * *

■ 5. Amend § 984.22 by removing the word ''merchantable'' in paragraphs (a) and (b).

§§ 984.23 and 984.26 [Removed and Reserved]

■ 6. In §§ 984.23 and 984.26, lift the stays of May 7, 2020, and remove and reserve the sections.

■ 7. Revise § 984.32 to read as follows:

§ 984.32 To certify.

To certify means the issuance of a certification of inspection of walnuts in accordance with regulations issued pursuant to § 984.50.

§ 984.33 [Removed and Reserved]

■ 8. In § 984.33, lift the stay of May 7, 2020, and remove and reserve the section.

■ 9. Amend § 984.37 by revising paragraphs (b) and (c)(4) to read as follows:

§ 984.37 Nominations.

* * * * *

(b) Nominations for handler members shall be submitted on ballots mailed by the Board to all handlers in their respective Districts. All handlers' votes shall be weighted by the weight of inshell walnuts handled by each handler during the preceding marketing year. Each handler in the production area may vote for handler member nominees and their alternates. However, no handler with less than 35% of the crop shall have more than one member and one alternate member. The person receiving the highest number of votes for each handler member position shall be the nominee for that position.

(c) * * *

(4) Nominations for handler members representing handlers that do not handle 35% or more of the crop shall be submitted on ballots mailed by the Board to those handlers. The votes of these handlers shall be weighted by the weight of inshell walnuts handled by each handler during the preceding marketing year. Each handler in the production area may vote for handler member nominees and their alternates of this paragraph (c)(4). However, no handler shall have more than one person on the Board either as member or alternate member. The person receiving the highest number of votes for a handler member position of this paragraph (c)(4) shall be the nominee for that position.

* * * * *

■ 10. In § 984.48:

■ a. Revise the introductory text of paragraph (a);

■ b. Remove the words ''merchantable and substandard'' in paragraph (a)(3);

■ c. Lift the stays of May 7, 2020, on paragraphs (a)(6) and (7) and remove both paragraphs; and

■ d. Redesignate paragraphs (a)(8) and (9) as paragraphs (a)(6) and (7), respectively.

The revision reads as follows:

§ 984.48 Marketing estimates and recommendations.

(a) Each marketing year the Board shall hold a meeting, prior to October 20, for the purpose of recommending to the Secretary a marketing policy for such year. Each year such recommendation shall be adopted by the affirmative vote of at least 60% of the Board and shall include the following:

* * * * *

§ 984.49 [Removed and Reserved]

■ 11. In § 984.49, lift the stays of August 7, 1995, and May 7, 2020, and remove and reserve the section.

■ 12. In § 984.50, lift the stay of May 7, 2020, on paragraph (e) and revise the section to read as follows:

§ 984.50 Grade, quality, and size regulations.

(a) The Board may recommend, subject to the approval of the Secretary, regulations that:

(1) Establish handling requirements for particular grades, sizes, or qualities, or any combination thereof, of any or all varieties or classifications of walnuts during any period;

(2) Establish different handling requirements and tolerance limits for particular grades, sizes, or qualities, or any combination thereof, for different market destinations;

(3) Establish different handling requirements for the processing of shelled walnuts and the handling thereof; and

(4) Establish inspection and certification requirements for the purposes of this paragraph (a) and paragraph (b) of this section.

(b) During any period, regulations issued under this section are in effect, no handler shall handle or process walnuts into manufactured items or products unless they meet the applicable requirements under this section as evidenced by certification acceptable to the Board.

(c) Regulations issued under this section may be amended, modified, suspended, or terminated whenever it is determined:

(1) That such action is warranted upon recommendation of the Board and approval by the Secretary, or other available information; or

(2) That regulations issued under this section no longer tend to effectuate the declared policy of the Act.

§§ 984.51 and 984.52 [Removed and Reserved]

■ 13. Remove and reserve §§ 984.51 and 984.52

§§ 984.54 and 984.56 [Removed and Reserved]

■ 14. In §§ 984.54 and 984.56, lift the stay of May 7, 2020, and remove and reserve the sections.

■ 15. Revise § 984.64 to read as follows:

§ 984.64 Disposition of substandard walnuts.

During any period when regulations are in effect pursuant to § 984.50, substandard walnuts may be disposed of only for manufacture into oil livestock feed, or such other uses as the Board determines to be noncompetitive with existing domestic and export markets for merchantable walnuts and with proper safeguards to prevent such walnuts from thereafter entering channels of trade in such markets. Each handler shall submit, in such form and at such intervals as the Board may determine, reports of his production and holdings of substandard walnuts and the disposition of all substandard walnuts to any other person, showing the quantity, lot, date, name and address of the person to whom delivered, the approved use and such other information pertaining thereto as the Board may specify.

§ 984.66 [Removed and Reserved]

■ 16. In § 984.66, lift the stay of May 7, 2020, and remove and reserve the section.

■ 17. In § 984.67:

■ a. Lift the stay of May 7, 2020, on paragraph (a) and remove the paragraph;

■ b. Redesignate paragraphs (b) and (c) as paragraphs (a) and (b), respectively; and

■ c. Revise newly designated paragraph (a).

The revision reads as follows:

§ 984.67 Exemptions.

(a) *Exemptions from assessments and quality regulations.*

(1) *Sales by growers direct to consumers.* Any walnut grower may handle walnuts of his production free of the regulatory and assessment provisions of this part if he sells such walnuts in the area of production directly to consumers under the following types of exemptions:

(i) At roadside stands and farmers' markets;

(ii) In quantities not exceeding an aggregate of 500 pounds of inshell walnuts of 200 pounds of shelled walnuts during any marketing year (at locations other than those specified in paragraph (a)(1)(i) of this section); and

(iii) If shipped by parcel post or express in quantities not exceeding 10 pounds of inshell walnuts or 4 pounds of shelled walnuts to any one consumer in any one calendar day.

(2) *Green walnuts.* Walnuts which are green and which are so immature that they cannot be used for drying and sale as dried walnuts may be handled without regard to the provisions of this part.

(3) *Noncompetitive outlets.* Any person may handle walnuts, free of the provisions of this part, for use by charitable institutions, relief agencies, governmental agencies for school lunch programs, and diversion to animal feed or oil manufacture pursuant to an authorized governmental diversion program.

* * * * *

■ 18. In § 984.69, lift the stay of May 7, 2020, on paragraph (b) and revise the section to read as follows:

§ 984.69 Assessments.

(a) *Requirement for payment.* Each handler shall pay the Board, on demand, his or her pro rata share of the expenses authorized by the Secretary for each marketing year. Each handler's pro rata share shall be the rate of assessment per inshell pound of walnuts fixed by the Secretary times the pounds of walnuts received by him or her for his or her own account (except as to receipt from other handlers on which assessments have been paid). At any time during or after the marketing year the Secretary may increase the assessment rate as necessary to cover authorized expenses and each handler's pro rata share shall be adjusted accordingly.

(b) *Assessment rate.* The assessment rate set out may be modified by the Secretary, based upon a recommendation of the Board or other available data.

(c) *Late payment.* If a handler does not pay assessments within the time prescribed by the Board, the assessment may be increased by a late payment charge and/or an interest rate charge at amounts prescribed by the Board with approval of the Secretary.

(d) *Accounting.* If at the end of a marketing year the assessments collected are in excess of expenses incurred, such excess shall be accounted for in accordance with one of the following:

(1) If such excess is not retained in a reserve, as provided in paragraph (d)(2) or (3) of this section, it shall be refunded to handlers from whom collected, and each handler's share of such excess funds shall be the amount of assessments he or she has paid in excess of his or her pro rata share of the actual expenses of the Board.

(2) Excess funds may be used temporarily by the Board to defray expenses of the subsequent marketing year provided each handler's share of such excess shall be made available to him or her by the Board within five months after the end of the year.

(3) The Board may carry over such excess into subsequent marketing years as a reserve: Provided, that funds already in reserve do not exceed approximately two years' budgeted expenses. In the event that funds exceed two marketing years' budgeted expenses, future assessments will be reduced to bring the reserves to an amount that is less than or equal to two marketing years' budgeted expenses. Such reserve funds may be used:

(i) To defray expenses, during any marketing year, prior to the time assessment income is sufficient to cover such expenses;

(ii) To cover deficits incurred during any year when assessment income is less than expenses;

(iii) To defray expenses incurred during any period when any or all provisions of this part are suspended; and

(iv) To meet any other such costs recommended by the Board and approved by the Secretary.

(e) *Advanced assessments and commercial loans.* To provide funds for the administration of the provisions of this part during the part of a marketing year when neither sufficient operating reserve funds nor sufficient revenue from assessments for the current marketing year are available, the Board may accept payment of assessments in advance or may borrow money from a commercial lending institution for such purposes.

(f) *Termination.* Any money collected from assessments hereunder and remaining unexpended in the possession of the Board upon termination of this part shall be distributed in such manner as the Secretary may direct.

■ 19. Revise § 984.72 to read as follows:

§ 984.72 Reports of walnuts handled.

Each handler who handles walnuts, inshell or shelled, at any time during a marketing year shall submit to the Board in such form and at such intervals as the Board may prescribe, reports showing the quantity so handled and such other information pertinent thereto as the Board may specify.

■ 20. Revise § 984.77 to read as follows:

§ 984.77 Verification of reports.

For the purpose of verifying and checking reports filed by handlers or the operations of handlers, the Secretary and the Board through its duly authorized representatives shall have access to any premises where walnuts and walnut records are held. Such access shall be available at any time during reasonable business hours. Authorized representatives shall be permitted to inspect any walnuts held and any and all records of the handler with respect to matters within the purview of this part. Each handler shall maintain complete records on the receiving, holding, and disposition of both inshell and shelled walnuts. Each handler shall furnish all labor necessary to facilitate such inspections at no expense to the Board or the Secretary. Each handler shall store all walnuts held by him or her in such manner as to facilitate inspection and shall maintain adequate storage records, which will permit accurate identification of respective lots and of all such walnuts held or disposed of theretofore. The Board, with the approval of the Secretary, may establish any methods and procedures needed to verify reports.

§ 984.89 [Amended]

■ 21. In § 984.89 (b)(4), remove the term ''fiscal period'' and add in its place the term ''marketing year''.

■ 22. Revise § 984.347 to read as follows:

§ 984.347 Assessment rate.

On and after September 1, 2023, an assessment rate shall be fixed at $0.0125 per inshell pound of California walnuts.

§ 984.450 [Removed and Reserved]

■ 23. In § 984.450, lift the stays of May 7, 2020, on paragraphs (a) and (b) and remove and reserve the section.

§ 984.451 [Removed and Reserved]

■ 24. In § 984.451, lift the stay of May 7, 2020, on paragraph (c) and remove and reserve the section.

§ 984.452 [Removed and Reserved]

■ 25. Remove and reserve § 984.452.

§ 984.456 [Removed and Reserved]

■ 26. In § 984.456, lift the stay of May 7, 2020, and remove and reserve the section.

§ 984.459 [Amended]

■ 27. In § 984.459, remove and reserve paragraph (a)(3).

§ 984.464 [Removed and Reserved]

■ 28. In § 984.464, lift the stay of May 7, 2020, on paragraph (a) and remove and reserve the section.

■ 29. Revise § 984.472 to read as follows:

§ 984.472 Reports of walnuts, received, shipped, and committed.

(a) Reports of walnuts shipped during a month shall be submitted to the Board on California Walnut Board (CWB) Form No. 6 not later than the 5th day of the following month. Such reports shall include all shipments during the preceding month and shall show for inshell and shelled walnuts: the quantity shipped; whether they were shipped into domestic or export channels; and for exports, the quantity by country of destination. If a handler makes no shipments during any month, he/she shall submit a report marked ''None.'' If a handler has completed his/her shipments for the season, he/she shall mark the report ''Completed,'' and he/she shall not be required to submit any additional CWB Form No. 6 reports during the remainder of that marketing year.

(b) Reports of walnuts purchased directly from growers by handlers who are manufacturers or retailers shall be submitted to the Board on CWB Form No. 6, not later than the 5th day of the month following the month in which the walnuts were purchased. Such reports shall show the quantity of walnuts purchased.

(c) Reports of walnuts on which handlers have made purchase commitments with buyers during the month, but which have not yet been shipped, shall be submitted to the Board on CWB Form No. 6, not later than the 5th day of the month following the month in which the walnuts were committed. Such reports shall show the quantity of walnuts committed in either inshell or shelled pounds. If the handler made no commitments during any month, he/she shall mark ''None'' in the ''Purchase Commitments'' section of CWB Form No. 6.

■ 30. Revise § 984.476 to read as follows:

§ 984.476 Report of walnut receipts produced outside California or the United States.

Each handler who receives walnuts from outside California or the United States shall file with the Board, on CWB Form No. 7, a report of the receipt of such walnuts. The report shall be filed as follows: On or before December 5 for such walnuts received during the period September 1 to November 30; on or before March 5 for such walnuts received during the period December 1 to February 28 (February 29 in a leap year); on or before June 5 for such walnuts received during the period March 1 to May 31; and on or before September 5 for such walnuts received during the period June 1 to August 31. The report shall include the quantity of such walnuts received, the country of origin for such walnuts, and whether such walnuts are inshell or shelled.

Erin Morris,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2023–04428 Filed 3–6–23; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Parts 1, 2, and 3

[Docket No. APHIS–2022–0022]

RIN 0579–AE69

Wild and Exotic Animal Handling, Training of Personnel Involved With Public Handling of Wild and Exotic Animals, and Environmental Enrichment for Species

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Advance notice of proposed rulemaking; extension of comment period.

SUMMARY: We are extending the comment period for our advance notice of proposed rulemaking that solicits public comment on our plan to strengthen regulations regarding the handling of wild and exotic animals for exhibition, as well as the training of personnel involved in the handling of wild and exotic animals, and to establish standards addressing environmental enrichment for all regulated animals. This action will allow interested persons additional time to prepare and submit comments.

DATES: The comment period for the advance notice of proposed rulemaking published on January 9, 2023 (88 FR 1151–1154) is extended. We will consider all comments that we receive on or before April 10, 2023.

ADDRESSES: You may submit comments by either of the following methods: *FederaleRulemakingPortal*: Go to *www.regulations.gov.* Enter APHIS–2022–0022 in the Search field. Select the Documents tab, then select the Comment button in the list of documents.

• *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2022–0022, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.10, 4700 River Road, Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *Regulations.gov* or in our reading room, which is located in room 1620 of the USDA South Building, 14th Street and Independence Avenue SW, Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: Dr. Lance H. Bassage, VMD, Director, National Policy Staff, Animal Care, APHIS, 4700 River Road Unit 84, Riverdale, MD 20737; *lance.h.bassage@usda.gov;* (970) 494–7478.

SUPPLEMENTARY INFORMATION:

On January 9, 2023, we published in the **Federal Register** (88 FR 1151–1154, Docket No. APHIS–2022–0022) an advance notice of proposed rulemaking [1] to solicit public comment on our plan to strengthen regulations regarding the handling of wild and exotic animals for exhibition, as well as the training of personnel involved in the handling of wild and exotic animals, and to establish standards addressing environmental enrichment for all regulated animals.

Comments on the advance notice of proposed rulemaking were required to be received on or before March 10, 2023. We are extending the comment period on Docket No. APHIS–2022–0022 until April 10, 2023. This action will allow interested persons additional time to prepare and submit comments.

Authority: 7 U.S.C. 2131–2159; 7 CFR 2.22, 2.80, and 371.7.

[1] To view the advance notice of proposed rulemaking and public comments, go to *www.regulations.gov.* Enter APHIS–2022–0022 in the Search field.

Done in Washington, DC, this 2nd day of March 2023.

Michael Watson,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2023–04668 Filed 3–6–23; 8:45 am]

BILLING CODE 3410–34–P

NUCLEAR REGULATORY COMMISSION

10 CFR Chapter I

[NRC–2023–0052]

Consideration of Current Operating Issues and Licensing Actions in License Renewal

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft regulatory issue summary; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is seeking public comment on a draft regulatory issue summary (RIS) concerning how the NRC considers current operation of a facility in the NRC's license renewal review under NRC regulations. NRC regulations identify the technical information that must be submitted in a license renewal application (LRA) to enable the NRC staff to make a determination that the license may be renewed. In part, an applicant is required to demonstrate that the effects of aging on the functionality of structures and components subject to an aging management review will be adequately managed; the consideration of recent operating experience is an important aspect of that demonstration. In addition, as required by NRC regulations, license renewal applicants need to update their applications with new information related to any current licensing basis changes that could impact aging management of structures and components.

DATES: Submit comments by May 8, 2023. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: You may submit comments by any of the following methods; however, the NRC encourages electronic comment submission through the Federal rulemaking website:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2023–0052. 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.
- *Mail commeIADnts to:* Office of Administration, Mail Stop: TWFN–7–A60M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Program Management, Announcements and Editing Staff.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Phyllis Clark, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–415–6447, email: *Phyllis.Clark@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2023–0052 when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2023–0052.
- *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.* RIS 2014–06, Revision 1, ''Consideration of Current Operating Issues and Licensing Actions in License Renewal,'' is available in ADAMS under Accession No. ML22024A172.
- *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 a.m. and 4 p.m. eastern time (ET), Monday through Friday, except Federal holidays.

B. Submitting Comments

The NRC encourages electronic comment submission through the Federal rulemaking website (*https://www.regulations.gov*). Please include Docket ID NRC–2023–0052 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *https://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Background

The NRC is issuing this regulatory issue summary (RIS) to provide information to applicants and licensees on how the NRC considers current operation of a facility in the NRC's license renewal review under part 54 of title 10 of the *Code of Federal Regulations* (10 CFR), ''Requirements for Renewal of Operating Licenses for Nuclear Power Plants.'' Revision 1 of RIS 2014–06, ''Consideration of Current Operating Issues and Licensing Actions in License Renewal,'' provides additional clarity on NRC staff expectations of how operating experience that occurs in all stages of the license renewal process should be considered in an applicant's demonstration of the adequacy of proposed aging management activities. This RIS requires no action or written response on the part of any addressee.

The NRC issues RISs to communicate with stakeholders on a broad range of matters. It provides guidance to applicants and licensees on the scope and detail of information that should be provided in licensing applications to facilitate NRC review.

As noted in 83 FR 20858 (May 8, 2018), this document is being published in the ''Proposed Rules'' section of the **Federal Register** to comply with publication requirements under 10 CFR chapter I.

III. Proposed Action

The NRC is requesting public comments on the draft RIS. All comments that are to receive consideration in the final RIS must be submitted electronically or in writing as indicated in the **ADDRESSES** section of this document. The NRC staff will make a final determination regarding issuance of the RIS after it considers any public comments received in response to this request.

Dated: March 1, 2023.

For the Nuclear Regulatory Commission.

Lisa M. Regner,

Chief, Generic Communication and Operating Experience Branch, Division of Reactor Oversight, Office of Nuclear Reactor Regulation.

[FR Doc. 2023–04601 Filed 3–6–23; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 21, 25, and 29

[Docket No. FAA–2023–0515]

Draft Policy Statement Regarding Submission of Outline of New and Changed Systems at the Beginning of the Type Certificate Amendment Process for Transport Category Aircraft; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notification of availability, request for comments; correction.

SUMMARY: The FAA published a document in the **Federal Register** on March 2, 2023, inviting the public to submit comments on the draft policy statement regarding Submission of Outline of New and Changed Systems at the Beginning of the Type Certificate Amendment Process for Transport Category Aircraft. The document contained an incorrect uniform resource locator (URL).

DATES: This correction is effective on March 7, 2023.

FOR FURTHER INFORMATION CONTACT: Sue McCormick, Strategic Policy Systems Standards Section, AIR–619, Strategic Policy Management Branch, Policy and Innovation Division, Aircraft Certification Service, by email at *susan.mccormick@faa.gov,* or by phone at (206) 231–3242.

SUPPLEMENTARY INFORMATION:

Background

Draft Policy Statement Regarding Submission of Outline of New and Changed Systems at the Beginning of the Type Certificate Amendment Process for Transport Category Aircraft, was published in the **Federal Register** on March 2, 2023 (88 FR 13071). The original document contained an incorrect URL for Aviation Safety Draft Documents Open for Comment.

Correction

In the **Federal Register** of March 2, 2023 (88 FR 13071), make the following correction:

1. On page 13071, in the **SUPPLEMENTARY INFORMATION**, Discussion section, third sentence, correct the URL to read ''*https://www.faa.gov/aircraft/draft_docs*''.

Issued in Washington, DC, on March 2, 2023.

James D. Foltz,

Acting Manager, Strategic Policy Management Branch, Policy and Innovation Division, Aircraft Certification Service.

[FR Doc. 2023–04658 Filed 3–6–23; 8:45 am]

BILLING CODE 4910–13–P

FEDERAL TRADE COMMISSION

16 CFR Part 260

RIN 3084–AB15

Public Workshop Examining Guides for the Use of Environmental Marketing Claims

AGENCY: Federal Trade Commission.

ACTION: Proposed rule; public meeting (workshop).

SUMMARY: The Federal Trade Commission (''FTC'' or ''Commission'') plans to host a public workshop on May 23, 2023, to examine ''recyclable'' advertising claims. The workshop is a component of the Commission's recently announced regulatory review of the Guides for the Use of Environmental Marketing Claims.

DATES: The public workshop will be held on May 23, 2023, from 8:30 a.m. to 12:30 p.m. ET at the Constitution Center (first floor conference rooms), 400 Seventh St. SW, Washington, DC 20024. The workshop will also be available for viewing via live webcast at *https://www.ftc.gov/news-events/events/2023/05/talking-trash-ftc-recyclable-claims-green-guides.* Any written comments related to the issues discussed at the workshop must be received by June 13, 2023.

ADDRESSES: Interested parties may file a comment by following the instructions in Part IV of the **SUPPLEMENTARY INFORMATION** section below.

REGISTRATION INFORMATION: The workshop is open to the public and there is no fee to attend. The FTC also plans to make this workshop available via webcast (*see https://www.ftc.gov/news-events/events/2023/05/talking-trash-ftc-recyclable-claims-green-guides*). All in-person attendees will be required to show a valid photo identification, such as a driver's license, prior to admittance to the Conference Center. Pre-registration is not necessary to attend.

The FTC Act and other laws we administer permit the Commission to collect your contact information and any comments you submit for consideration and use in this proceeding as appropriate. For additional information, including routine uses permitted by the Privacy Act, see the Commission's privacy policy at *https://www.ftc.gov/site-information/privacy-policy.*

This event is open to the public and may be photographed, videotaped, webcast, or otherwise recorded. By participating in this event, you are agreeing that your image—and anything you say or submit—may be posted indefinitely at *www.ftc.gov* or on one of the Commission's publicly available social media sites.

FOR FURTHER INFORMATION CONTACT: Hampton Newsome (202–326–2889), or Julia Solomon Ensor (202–326–2377), Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Ave. NW, Washington, DC 20580.

SUPPLEMENTARY INFORMATION:

I. Regulatory Review of the Green Guides

On December 20, 2022, the Commission published in the **Federal Register** a document announcing a review of the agency's Guides for Use of Environmental Marketing Claims, 16 CFR part 260 (''Green Guides'' or the ''Guides'').[1] This proceeding is part of the Commission's periodic review of all rules and guides to: (1) examine their efficacy, costs, and benefits; and (2) determine whether to retain, modify, or rescind them.

First issued in 1992 [2] and most recently revised in 2012,[3] the Green Guides address the applicability of section 5 of the FTC Act, 15 U.S.C. 45(a) (''section 5'') to environmental advertising and labeling claims.[4] The

[1] 87 FR 77766 (Dec. 20, 2022).

[2] 57 FR 36363 (Aug. 13, 1992).

[3] 77 FR 62122 (Oct. 11, 2012).

[4] The FTC administers several other environmental and energy-related rules and guides. *See* Guide Concerning Fuel Economy Advertising

Guides outline general principles applicable to all environmental marketing claims and provide specific guidance regarding many common environmental benefit claims. However, as administrative interpretations of the law, the Guides are not independently enforceable, nor do they represent the only permissible approach to making nondeceptive environmental benefit claims.[5] In any enforcement action, the Commission must prove the challenged act or practice is unfair or deceptive in violation of section 5 of the FTC Act.

In the December 2022 publication initiating the current review, the Commission sought comment on several overarching issues, including the continuing need for the Guides, their economic impact, and their effect on preventing deceptive advertising claims. The publication also invited comment on the Guides' interaction with other environmental marketing regulations, and whether the Commission should consider rulemaking to establish independently enforceable requirements to address unfair and deceptive environmental claims. Finally, because the Commission seeks to ensure the Guides appropriately respond to changes in consumer perception, the Commission solicited consumer survey evidence and consumer perception data addressing environmental claims, including recyclable claims.

II. Recycling Workshop

As part of the Commission's 2012 review of the Guides, staff held several workshops on issues of concern. As part of its current review, the FTC plans to hold a workshop examining ''recyclable'' claims. The workshop will cover such topics as: the current state of recycling practices and recycling-related advertising in the U.S.; consumer perception of current and emerging recycling-related claims; and the need for any updates or other changes to the Green Guides related to recycling claims. The event is likely to include panels on these topics. The FTC will publish a more detailed agenda in advance of the scheduled workshop.

The December 2022 publication announcing the current review sought comment on several questions related to ''recyclable'' claims. Specifically, the Commission asked: Should the Commission revise the Guides to include updated guidance on ''recyclable'' claims? If so, why, and what guidance should be provided? If not, why not? What evidence supports your proposed revision(s)? What evidence is available concerning consumer understanding of the term ''recyclable''? What evidence constitutes a reasonable basis to support a ''recyclable'' claim? The December 2022 publication also explained that the Guides state marketers may make an unqualified ''recyclable'' claim when recycling facilities are available to a substantial majority of consumers or communities where the item is sold. ''Substantial majority'' is defined as 60%. Should the Guides be revised to update the 60% threshold? If so, why, and what guidance should be provided? If not, why not? What evidence supports your proposed revision? Is there any recent consumer perception research relevant to the 60% threshold? Should the Guides be revised to include guidance related to unqualified ''recyclable'' claims for items collected by recycling programs for a substantial majority of consumers or communities but not ultimately recycled due to market demand, budgetary constraints, or other factors? If so, why, and what guidance should be provided? If not, why not? What evidence supports your proposed revision? These and other questions may be addressed at the workshop.

III. Public Participation Information

A. Workshop Attendance

The workshop is free and open to the public and will be held in person and webcast live on the FTC's website. This event may be photographed, videotaped, webcast, or otherwise recorded. By participating in this event, you are agreeing that your image—and anything you say or submit—may be posted indefinitely at *https://www.ftc.gov* or on one of the Commission's publicly available social media sites.

B. Panelists

The workshop will be organized into panels that will address the designated topics. FTC staff will select the panelists. Other attendees or interested stakeholders will have an opportunity to comment and ask questions. The Commission will place a transcript of the proceeding on the public record.

Disclosing funding sources promotes transparency, ensures objectivity, and maintains the public's trust. Panelists will be required to disclose the source of any support they received in connection with participation at the workshop. This information will be included in the published panelist bios as part of the workshop record.

C. Electronic and Paper Comments

The submission of comments is not required for participation in the workshop. If a person wishes to submit paper or electronic comments related to the issues discussed at the workshop, such comments should be filed as prescribed in Part IV of this document (directly below) and must be received on or before June 13, 2023.

IV. Filing Comments

The Commission invites comments only on the specific issues discussed at the Workshop. You can file a comment online or on paper. The deadline to file a comment is June 13, 2023. Write ''Green Guides—Recycling Workshop, 16 CFR part 260, Project No. P954501'' on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including the *https://www.regulations.gov* website.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we strongly encourage you to submit your comments online. To make sure the Commission considers your online comment, you must file it through the *https://www.regulations.gov* website by following the instructions on the web-based form provided.

Because your comment will be placed on the public record, you are solely responsible for making sure that your comment does not include any sensitive or confidential information. In particular, your comment should not include any sensitive personal information, such as your or anyone else's Social Security number; date of birth; driver's license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any ''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 in particular competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

for New Automobiles (16 CFR part 259), Energy Labeling Rule (16 CFR part 305), Fuel Rating Rule (16 CFR part 306), Alternative Fuels and Alternative Fueled Vehicles Rule (16 CFR part 309), Recycled Oil Rule (16 CFR part 311), and Labeling and Advertising of Home Insulation Rule (16 CFR part 460).

[5] The Guides do not establish standards for environmental performance or prescribe testing protocols.

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), 16 CFR 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 it must identify the specific portions of the comments to be withheld from the public record.[6] 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 the FTC 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.

If you file your comment on paper, write ''Green Guides—Recycling Workshop, 16 CFR part 260, Project No. P954501'' on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Ave. NW, Suite CC–5610 (Annex F), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th St. SW, 5th Floor, Suite 5610 (Annex F). If possible, submit your paper comment or request to the Commission by courier or overnight service.

Visit the Commission website at *https://www.ftc.gov* to read this document and the news release describing it. The FTC Act and other laws that 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 that it receives on or before June 13, 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.*

By direction of the Commission.

April J. Tabor,

Secretary.

[FR Doc. 2023–04589 Filed 3–6–23; 8:45 am]

BILLING CODE 6750–01–P

[6] *See* 16 CFR 4.9(c).

DEPARTMENT OF LABOR

Office of Worker's Compensation Programs

20 CFR Part 726

RIN 1240–AA16

Black Lung Benefits Act: Authorization of Self-Insurers

AGENCY: Office of Workers' Compensation Programs, Labor.

ACTION: Notice of proposed rulemaking; extension of comment period.

SUMMARY: The Department of Labor is extending the comment period for a proposed rule that would update the process for coal mine operators to apply for authorization to self-insure, the requirements operators must meet to qualify to self-insure, the amount of security self-insured operators must provide, and the process for operators to appeal determinations made by the Office of Workers' Compensation Programs (OWCP). Since the proposed rule was published, the Department has received multiple requests from interested parties for the Department to provide additional time for them to develop and submit their comments on the proposal. In response to those requests, the Department is extending the comment period.

DATES: The comment period for the proposed rule published on January 19, 2023, at 88 FR 3349, is extended. Written comments on the proposed rule must be received by April 19, 2023.

ADDRESSES: You may submit written comments by any of the following methods. To facilitate receipt and processing of comments, OWCP encourages interested parties to submit their comments electronically.

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions on the website for submitting comments.
- *Facsimile:* (202) 693–1395 (this is not a toll-free number). Only comments of ten or fewer pages, including a fax cover sheet and attachments, if any, will be accepted by fax.
- *Regular Mail/Hand Delivery/Courier:* Submit comments on paper to the Division of Coal Mine Workers' Compensation, Office of Workers' Compensation Programs, U.S. Department of Labor, 200 Constitution Avenue NW, Suite S3229–DCWMC, Washington, DC 20210. The Department's receipt of U.S. mail may be significantly delayed due to security procedures. You must take this into consideration when preparing to meet the deadline for submitting comments.

Instructions: Your submission must include the agency name and the Regulatory Information Number (RIN) for this rulemaking. *Caution:* All comments received will be posted without change to *https://www.regulations.gov.* Please do not include any personally identifiable or confidential business information you do not want publicly disclosed.

Docket: For access to the rulemaking docket and to read background documents or comments received, go to *https://www.regulations.gov.* Although some information (*e.g.,* copyrighted material) may not be available through the website, the entire rulemaking record, including any copyrighted material, will be available for inspection at OWCP. Please contact the individual named below if you would like to inspect the record.

FOR FURTHER INFORMATION CONTACT: Michael Chance, Director, Division of Coal Mine Workers' Compensation, Office of Workers' Compensation Programs, U.S. Department of Labor, 200 Constitution Avenue NW, Suite S3229–DCWMC, Washington, DC 20210. Telephone: 1–800–347–2502. This is a toll-free number. TTY/TDD callers may dial toll-free 1–877–889–5627 for further information.

SUPPLEMENTARY INFORMATION: The Black Lung Benefits Act (BLBA) requires every coal mine operator to secure the payment of benefits for which it may be found liable either by purchasing commercial insurance or by qualifying as a self-insurer ''in accordance with regulations prescribed by the Secretary.'' 30 U.S.C. 933(a); *see also* 30 U.S.C. 932(b); 20 CFR 726.1. On January 19, 2023, the Department issued a Notice of Proposed Rulemaking to update the process and requirements for coal mine operators to apply for and receive authorization to self-insure their liabilities under the BLBA. The public comment period for the NPRM was set to close on March 20, 2023. However, OWCP has received requests from several stakeholders to extend the comment period by 60 days. The stakeholders explained that they need additional time to review the NPRM, assess its impacts on their operations or members' operations, gather information on the availability and cost of surety bonds, and prepare meaningful comments.

OWCP agrees to an extension and believes a 30-day extension of the public comment period is sufficient and strikes an appropriate balance between the agency's need for timely input and stakeholders' requests for additional time to prepare comprehensive

comments. Therefore, the public comment period will be extended until April 19, 2023.

Signed at Washington, DC.

Christopher J. Godfrey,

Director, Office of Workers' Compensation Programs.

[FR Doc. 2023–04322 Filed 3–6–23; 8:45 am]

BILLING CODE 4510–CK–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2022–0927; FRL–10657–01–R6]

Determination of Attainment by the Attainment Date But For International Emissions for the 2015 Ozone National Ambient Air Quality Standard; El Paso-Las Cruces, Texas-New Mexico

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA or ''Agency'') is proposing to determine that the El Paso-Las Cruces, Texas-New Mexico nonattainment area would have attained the 2015 ozone national ambient air quality standard (NAAQS) by the August 3, 2021 ''Marginal'' area attainment date, but for emissions emanating from outside the United States. If we finalize this action as proposed, the El Paso-Las Cruces, Texas-New Mexico ozone nonattainment area would no longer be subject to the Clean Air Act (CAA) requirements pertaining to reclassification upon failure to attain and therefore would remain classified as a Marginal nonattainment area for the 2015 ozone NAAQS. This action, if finalized as proposed, will discharge the EPA's statutory obligation to determine whether the El Paso-Las Cruces, Texas-New Mexico ozone nonattainment area attained the NAAQS by the attainment date.

DATES: Written comments must be received on or before April 6, 2023.

ADDRESSES: Submit your comments, identified by Docket No. [EPA–R06–OAR–2022–0927], at *https://www.regulations.gov* or via email to *fuerst.sherry@epa.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact Sherry Fuerst, (214)665–6252, *fuerst.sherry@epa.gov.* For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.*

Docket: The index to the docket for this action is available electronically at *www.regulations.gov.* While all documents in the docket are listed in the index, some information may not be publicly available due to docket file size restrictions or content (*e.g.,* CBI).

FOR FURTHER INFORMATION CONTACT: Sherry Fuerst, EPA Region 6 Office, AR–SI, 214–665–6465, *fuerst.sherry@epa.gov.* We encourage the public to submit comments via *https://www.regulations.gov.* Please call or email the contact listed above if you need alternative access to material indexed but not provided in the docket.

SUPPLEMENTARY INFORMATION: Throughout this document wherever ''we,'' ''us,'' or ''our'' is used, we mean the EPA.

I. Background

A. 2015 Ozone National Ambient Air Quality Standard and Area Designations

Ground-level ozone pollution is formed from the reaction of volatile organic compounds (VOC) and oxides of nitrogen (NO_X) in the presence of sunlight. These two pollutants, referred to as ozone precursors, are emitted by many types of sources, including on-road and non-road motor vehicles and engines, power plants and industrial facilities, and smaller area sources such as lawn and garden equipment and paint operations. Scientific evidence indicates that adverse public health effects occur following exposure to ground-level ozone pollution. Exposure to ozone can harm the respiratory system (the upper airways and lungs), can aggravate asthma and other lung diseases, and is linked to premature death from respiratory causes. People most at risk from breathing air containing ozone include people with asthma, children, older adults and people who are active outdoors, especially outdoor workers.[1]

Under CAA section 109, the EPA promulgates NAAQS (or ''standards'') for pervasive air pollutants, such as ozone. The EPA has previously promulgated NAAQS for ozone in 1979, 1997, and 2008.[2] On October 26, 2015, the EPA revised the NAAQS for ozone to establish a new 8-hour standard.[3] In that action, the EPA promulgated identical revised primary and secondary ozone standards designed to protect public health and welfare that specified an 8-hour ozone level of 0.070 parts per million (ppm, 70 ppb).[4] Specifically, the standard requires that the 3-year average of the annual fourth highest daily maximum 8-hour average ozone concentration (*i.e.,* the design value) may not exceed 0.070 ppm.[5] When the design value does not exceed 0.070 ppm at each ambient air quality monitoring site within the area, the area is deemed to be attaining the ozone NAAQS.[6]

Section 107(d) of the CAA provides that when the EPA promulgates a new or revised NAAQS, the Agency must designate areas of the country as nonattainment, attainment, or unclassifiable based on whether an area is not meeting (or is contributing to air

[1] EPA Fact Sheet—Ozone and Health, available at *https://www.epa.gov/sites/default/files/2016-04/documents/20151001healthfs.pdf* and in the docket for this action.

[2] 44 FR 8202 (February 8, 1979), 62 FR 38856 (July 18, 1997), and 73 FR 16436 (March 27, 2008).

[3] 80 FR 65452

[4] Because the 2015 primary and secondary NAAQS for ozone are identical, for convenience, the EPA refers to them in the singular as ''the 2015 ozone NAAQS'' or as ''the standard.''

[5] A design value is a statistic used to compare data collected at an ambient air quality monitoring site to the applicable NAAQS to determine compliance with the standard. The design value for the 2015 ozone NAAQS is the 3-year average of the annual fourth highest daily maximum 8-hour average ozone concentration. The design value is calculated for each air quality monitor in an area and the area's design value is the highest design value among the individual monitoring sites in the area. Because the design value is based on the three most recent, complete calendar years of data, attainment must occur no later than December 31 of the year prior to the attainment date (*i.e.,* December 31, 2020, in the case of the El Paso Las Cruces Texas- New Mexico Marginal nonattainment area for the 2015 ozone NAAQS). As such, the EPA's proposed determination is based upon the complete, quality-assured, and certified ozone monitoring data from calendar years 2018, 2019, and 2020.

[6] The data handling convention in 40 CFR 50 Appendix U dictates that concentrations shall be reported in ''ppm'' to the third decimal place, with additional digits to the right being truncated. Thus, a computed 3-year average ozone concentration of 0.071 ppm is greater than 0.070 ppm and would exceed the standard, but a design value of 0.0709 is truncated to 0.070 and attains the 2015 ozone NAAQS.

quality in a nearby area that is not meeting) the NAAQS, meeting the NAAQS, or cannot be classified as meeting or not meeting the NAAQS, respectively. Title I of the CAA, Part D, Subpart 2 governs the classification, state planning, and emissions control requirements for any area designated as nonattainment for a revised primary ozone NAAQS. Specifically, CAA section 181(a)(1) requires the EPA to further classify each ozone nonattainment area at the time of designation, based on the extent of the area's exceedance of the NAAQS. Classifications for ozone nonattainment areas range from ''Marginal'' to ''Extreme''. CAA section 182 provides the specific attainment planning and additional requirements that apply to each ozone nonattainment area based on its classification. CAA section 182, as interpreted in the EPA's implementing regulations at 40 Code of Federal Regulations (CFR) sections 51.1308 through 51.1317, also establishes the timeframes by which air agencies must submit and implement SIP revisions to satisfy the applicable attainment planning elements and by which nonattainment areas must attain the 2015 ozone NAAQS.

Effective on August 3, 2018, the EPA designated 52 areas throughout the country, including the ''Sunland Park Area,'' a portion of Doña Ana County, New Mexico, nonattainment for the 2015 ozone NAAQS.[7] With the initial designation action, EPA classified the Sunland Park Area as Marginal by operation of law. Effective December 30, 2021, the EPA expanded the boundary of the existing Sunland Park nonattainment area to include El Paso County, TX creating the El Paso-Las Cruces, Texas-New Mexico multi-state nonattainment area. The Marginal area classification remained with the inclusion of the revised nonattainment boundary.

B. Clean Air Act Requirements for Marginal Ozone Nonattainment Areas

Marginal nonattainment areas must address the following requirements in their SIP submission: the baseline emissions inventory, source emissions statements, and nonattainment new source review program requirements. The New Mexico Environment Department (NMED) has provided SIP submittals to the EPA addressing these requirements for the Sunland Park portion of the nonattainment area and the EPA has approved the SIP submittals.[8] On December 7, 2022, the Texas Commission on Environmental Quality (TCEQ) submitted to EPA a SIP to address the El Paso County portion of the marginal nonattainment area requirements, specifically the emission inventory, emission statement and new source review program requirements.

Transportation and general conformity apply within the El Paso-Las Cruces, Texas-New Mexico multi-state nonattainment area under section 176(c) of the CAA and the federal regulations for transportation conformity (40 CFR 93 subpart A) and general federal actions (40 CFR 93 subpart B). This action, if finalized, would not affect the applicability of these regulations within the El Paso-Las Cruces, Texas-New Mexico nonattainment area.

As described in the 2015 Ozone NAAQS Implementation Rule, CAA section 182(a) does not require states to implement reasonably available control measures (RACM) or reasonably available control technology (RACT) in Marginal ozone nonattainment areas, and nothing in section 179B alters the statutory requirements with respect to RACM/RACT obligations in subpart 2.[9]

C. Requirement for Determination of Attainment of the 2015 Ozone NAAQS

CAA section 181(b)(2)(A) requires that within 6 months following the applicable attainment date, the EPA shall determine whether an ozone nonattainment area attained the standard based on the area's design value as of the attainment date. If the EPA determines that an area failed to attain, CAA section 181(b)(2)(A) requires the area to be reclassified by operation of law to the higher of: (1) the next higher classification for the area or (2) the classification applicable to the area's design value as of the determination of failure to attain.[10] CAA section 181(b)(2)(B) requires the EPA to publish the determination of failure to attain and accompanying reclassification in the **Federal Register** no later than 6 months after the attainment date, which in the case of the El Paso-Las Cruces, Texas-New Mexico nonattainment area was February 3, 2022.

The EPA's proposed determination that the El Paso-Las Cruces, Texas-New Mexico nonattainment area would have attained the 2015 ozone standard but for international emissions is based in part upon data that have been collected and quality-assured by NMED and TCEQ in accordance with 40 CFR part 58 and recorded in EPA's Air Quality System (AQS) database.[11]

The El Paso-Las Cruces, Texas-New Mexico Marginal nonattainment area's attainment date was August 3, 2021. Because the design value is based on the three most recent, complete calendar years of data, attainment must occur no later than December 31st of the year prior to the attainment date. For the El Paso-Las Cruces Texas-New Mexico Marginal nonattainment area, attainment must occur by December 31, 2020 based on complete data from 2018–2020. Ambient air quality monitoring data must meet the data completeness requirements in Appendix U.[12] The completeness requirements are met for the 3-year period at a monitoring site if daily maximum 8-hour average concentrations of ozone are available for at least 90 percent of the days within the ozone monitoring season, on average, for the 3-year period, and no single year has less than 75 percent data completeness. The EPA's proposed action for the El Paso-Las Cruces, Texas-New Mexico nonattainment area is based upon the complete, quality-assured, and certified ozone monitoring data from calendar years 2018, 2019, and 2020. The design value for this period is 78 ppb, indicating that the El Paso-Las Cruces, Texas-New Mexico nonattainment area was not in attainment of the 2015 ozone NAAQS on its August 3, 2021 attainment date.

D. International Transport and Requirements for Clean Air Act Section 179B

Anthropogenic emissions sources outside of the U.S. can affect to varying degrees the ability of some air agencies to attain and maintain the 2015 ozone NAAQS in areas within their jurisdiction. CAA section 179B(b) provides that where a state

[7] 83 FR 25776 (June 4, 2018). The EPA later designated the San Antonio area as a 2015 ozone NAAQS nonattainment area effective September 24, 2018. 83 FR 35136 (July 25, 2018).

[8] 87 FR 12592, March 7, 2022.

[9] 83 FR 62998, 63010 (December 6, 2018).

[10] If the EPA were to determine that the El Paso-Las Cruces, Texas-New Mexico multi-state nonattainment area failed to attain by the attainment date, it would be classified to the next highest classification of Moderate. The reclassified area would then be subject to the Moderate area requirement to attain the 2015 ozone NAAQS as expeditiously as practicable, but not later than August 3, 2024.

[11] The EPA maintains the AQS, a database that contains ambient air pollution data collected by the EPA, state, local, and tribal air pollution control agencies. The AQS also contains meteorological data, descriptive information about each monitoring station (including its geographic location and its operator) and data quality assurance/quality control information. The AQS data are used to (1) assess air quality, (2) assist in attainment/non-attainment designations, (3) evaluate SIPs for non-attainment areas, (4) perform modeling for permit review analysis, and (5) prepare reports for Congress as mandated by the CAA. Access is through the website at *https://www.epa.gov/aqs.*

[12] 40 CFR part 50, Appendix U section 4(b).

demonstrates to the Administrator's satisfaction that an ozone nonattainment area would have attained the NAAQS by the applicable attainment date but for emissions emanating from outside the United States (U.S.), that area shall not be subject to the mandatory reclassification provisions of CAA section 181(b)(2).

CAA section 179B provides the EPA with authority to consider impacts from international emissions in two contexts: (1) a ''prospective'' state demonstration submitted as part of an attainment plan, which the EPA considers when determining whether the SIP adequately demonstrates that a nonattainment area will attain the NAAQS by its future attainment date (CAA section 179B(a)); or (2) a ''retrospective'' state demonstration, which the EPA considers after the attainment date in determining whether a nonattainment area would have attained the NAAQS by the attainment date (CAA section 179B(b)). Since the attainment date for the multistate area has already passed, both New Mexico and Texas have submitted a retrospective 179B demonstration.

CAA section 179B(b) provides that, ''any State that establishes to the satisfaction of the Administrator that . . . such State *would have attained* the national ambient air quality standard for ozone by the applicable attainment date, but for emissions emanating from outside of the United States,'' [13] shall not be subject to reclassification to a higher classification by operation of law, as required in CAA section 181(b)(2).[14] The EPA refers to demonstrations developed under CAA section 179B(b) as ''retrospective'' demonstrations because they involve analyses of past air quality (*e.g.,* air quality data from the years evaluated for determining whether an area attained by the attainment date). Thus, an EPA-approved retrospective demonstration provides relief from reclassification that would have resulted from the EPA determining that the area failed to attain the NAAQS by the relevant attainment date.

The 2015 Ozone NAAQS Implementation Rule provided guidance on how the EPA planned to implement section 179B. In the preamble to the rule, the EPA confirmed that: (1) only areas classified Moderate and higher must show that they have implemented RACM/RACT; (2) CAA section 179B demonstrations are not geographically limited to nonattainment areas adjoining an international border; and (3) a state demonstration prepared under CAA section 179B can consider emissions emanating from sources in North America (*i.e.,* Canada or Mexico) or sources on other continents.[15] In the preamble to that rule, the EPA encouraged air agencies to consult with the appropriate EPA regional office to determine technical requirements for the CAA section 179B demonstrations. In addition, the EPA noted its development of supplementary technical information and guidance to assist air agencies in preparing demonstrations that meet the requirements of CAA section 179B.

The EPA issued more detailed guidance regarding CAA section 179B on December 18, 2020, that includes recommendations to assist state, local, and tribal air agencies that intend to develop a CAA section 179B demonstration (''179B Guidance'').[16] The 179B Guidance describes and provides examples of the kinds of information and analyses that the EPA recommends air agencies consider for inclusion in a CAA section 179B demonstration.

In the 179B Guidance, the EPA confirmed that while approval of a CAA section 179B demonstration provides specific forms of regulatory relief for air agencies, the EPA's approval does not relieve air agencies from obligations to meet the remaining applicable planning or emission reduction requirements in the CAA. It also does not provide a basis either for excluding air monitoring data influenced by international transport from regulatory determinations related to attainment and nonattainment, or for redesignating an area to attainment. The 179B demonstration is subject to a public notice and comment process before the EPA makes a final determination on the adequacy of the demonstration. EPA may consider a 179B demonstration when taking action to determine whether the area attained by the attainment date and is subject to reclassification.

Because the wording in CAA section 179B(b) is in the past tense, it is reasonable for the EPA to conclude that such demonstrations should be retrospective in nature. In other words, the demonstration should include analyses showing that the air quality data on specific days in the time period used to assess attainment were affected by international emissions to an extent that prevented the area from attaining the standard by the attainment date.[17] By definition, states can only make such a demonstration after air quality data collected pursuant to federal reference or equivalent monitoring methods are certified and indicate that the area failed to attain by the attainment date. Where the EPA approves a state's CAA section 179B(b) retrospective demonstration, the area retains its nonattainment designation and is still subject to all applicable requirements for the area's current classification but is not subject to the applicable requirements for any higher classification.[18] [19]

The EPA recognizes that the relationship between certain NAAQS exceedances and associated international transport is clearer in some cases than in others. The following characteristics would suggest the need for a more detailed demonstration with additional evidence: (1) affected monitors are not located near an international border; (2) specific international sources and/or their contributing emissions are not identified or are difficult to identify; (3) exceedances on internationally influenced days are in the range of typical exceedances attributable to local sources; and (4) exceedances occurred in association with other processes and sources of pollutants, or on days where meteorological conditions were conducive to local pollutant formation (*e.g.,* for ozone, clear skies and elevated temperatures).

Given the extensive number of technical factors and meteorological conditions that can affect international transport of air pollution, the EPA evaluates CAA section 179B demonstrations based on the weight of evidence of all information and analyses provided by an air agency. The appropriate level of supporting

[13] CAA Section 179B(b) (emphasis added).

[14] The EPA's longstanding view is that CAA section 179B(b) contains an erroneous reference to section 181(a)(2), for ozone nonattainment areas. See ''State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,'' 57 FR 13498, 13569, footnote 41 (April 16, 1992).

[15] 83 FR 62998, 63009.

[16] Guidance on the Preparation of Clean Air Act Section 179B Demonstrations for Nonattainment Areas Affected by International Transport of Emissions'' issued on December 18, 2020; available at: *https://www.epa.gov/sites/default/files/2020-12/documents/final_caa_179b_guidance_december_2020_with_disclaimer_ogc.pdf.* The EPA also issued a notice of availability in the **Federal Register** on January 7, 2021 (86 FR 1107).

[17] 179B Guidance, 15–16.

[18] ID at 3.

[19] As noted in our 179B Guidance, an air agency with a Marginal ozone nonattainment area that is affected by international emissions may wish to evaluate whether implementing emission reduction measures on domestic sources in the nonattainment area can bring the area into attainment because, until the area attains the NAAQS and the EPA approves an air agency submission addressing the redesignation criteria of CAA section 107(d)(3)(E), the area will continue to be subject to nonattainment area requirements, including nonattainment new source review. Id. at 17.

documentation will vary on a case-by-case basis depending on the nature and severity of international influence as well as the factors identified above. The EPA considers and qualitatively weighs all evidence based on its relevance to CAA section 179B and the nature of international contributions as described in the demonstration's conceptual model. Every demonstration should include fact-specific analyses tailored to the nonattainment area in question. When a CAA section 179B demonstration shows that international contributions are larger than domestic contributions, the weight of evidence will be more compelling than if the demonstration shows domestic contributions exceeding international contributions. In contrast, when a CAA section 179B demonstration shows that international emissions have a lower contribution to ozone concentrations than domestic emissions and/or international transport is not significantly different on local exceedance days compared to non-exceedance days, then the weight of evidence would not support approval of a 179B demonstration.

In evaluating a CAA section 179B demonstration, the EPA also considers what measures an air agency has implemented to control local emissions. At a minimum, states are still subject to all requirements applicable to the area based on its nonattainment classification. For the EPA to approve a state's CAA section 179B retrospective demonstration, the weight of evidence should show the area could not attain with on-the-books measures and potential reductions associated with the controls required to be implemented by the attainment date but for international emissions. Because CAA section 179B does not relieve an air agency of its planning or control obligations, the air agency should show that it has implemented all required emissions controls at the local level as part of its demonstration.

II. El Paso-Las Cruces, Texas-New Mexico Ozone Determination of Attainment ''But For'' International Emissions

A. El Paso-Las Cruces, Texas-New Mexico Nonattainment Area

The El Paso-Las Cruces, Texas-New Mexico nonattainment Area for the 2015 ozone standard is a multistate area that is located in the Paso del Norte (PdN) airshed.[20] The nonattainment area encompasses over 1,000 square miles in southeastern New Mexico and West Texas. Its population is estimated to be approximately 885,000 people.[21]

B. Ozone Monitoring Sites in El Paso-Las Cruces, Texas-New Mexico Nonattainment Area

There are currently two ozone monitors in the New Mexico portion of the nonattainment area: Santa Teresa and Desert View monitors. There are six ozone monitors in the Texas portion of the nonattainment area: El Paso UTEP, El Paso Chamizal, Skyline Park, Ivanhoe, Socorro Hueco, and Ascarate Park monitors. As shown in Table 2, the maximum 2020 design value for the nonattainment area based on certified monitoring data is 78 ppb at the Desert View Monitor. The EPA also notes that 2021 design values for the nonattainment area, based on certified monitoring data, are 80 ppb at the Desert View, New Mexico monitoring location; 75 ppb at the Santa Teresa, New Mexico monitoring location; 75 ppb at the El Paso-UTEP, Texas monitoring location; and 71 ppb at the El Paso Chamizal, Texas monitoring location indicating that both the Texas and New Mexico portions continue to fail to meet the standard.

Tables 1 and 2 of this document list the 2016–2021 annual fourth highest daily maximum hour average (''4th max'') and design values for the multistate area's ozone monitors. The Desert View, Santa Teresa, El Paso-UTEP, and El Paso Chamizal monitors are all within a mile of the border.

TABLE 1—2015 OZONE NAAQS: 2016–2021 YEARLY 4TH MAX, EL PASO-LAS CRUCES, TEXAS-NEW MEXICO NONATTAINMENT AREA OZONE MONITORS[22]

Site name	AQS site ID	Distance from border (miles)	4th Max (ppb)					
			2016	2017	2018	2019	2020	2021
New Mexico:								
Santa Teresa	35–013–0022	0.3	69	77	76	75	72	79
Desert View	35–013–0021	0.8	70	73	81	77	77	86
Texas:								
El Paso UTEP	48–141–0037	0.7	71	74	76	75	79	73
El Paso Chamizal	48–141–0044	0.1	65	72	78	73	72	69
Skyline Park	48–141–0058	9.5	66	75	77	72	71	68
Ivanhoe	48–141–0029	5	61	63	74	70	68	64
Socorro Hueco	48–141–0057	2.4	64	62	70	67	74	71
Ascarate Park	48–141–0055	0.1	66	67	75	64	69	56

TABLE 2—2015 OZONE NAAQS DESIGN VALUES EL PASO-LAS CRUCES, TEXAS-NEW MEXICO NONATTAINMENT AREA OZONE MONITORS[23]

Site name	AQS site ID	Design value (ppb)					
		2016	2017	2018	2019	2020	2021
New Mexico:							
Santa Teresa	35–013–0022	68	72	74	76	74	75
Desert View	35–013–0021	72	72	74	77	78	80
Texas:							
El Paso UTEP	48–141–0037	70	71	73	75	76	75

[20] Paso del Norte airshed consists of City of Sunland Park New Mexico, the City of El Paso, Texas and Municipio de Juárez, Mexico.

[21] U.S. Census Bureau, Population Estimates, July 1, 2021, (V2021) *https://www.census.gov/quickfacts/fact/table/elpasocounty texas,sunlandparkcitynewmexico,US/PST045221* accessed November 2, 2022.

[22] AQS Design Value Report.

[23] AQS Design Value Report.

TABLE 2—2015 OZONE NAAQS DESIGN VALUES EL PASO-LAS CRUCES, TEXAS-NEW MEXICO NONATTAINMENT AREA OZONE MONITORS [23]—Continued

Site name	AQS site ID	Design value (ppb)					
		2016	2017	2018	2019	2020	2021
El Paso Chamizal	48–141–0044	67	69	71	74	74	71
Skyline Park	48–141–0058	68	70	72	74	73	70
Ivanhoe	48–141–0029	62	63	66	69	70	67
Socorro Hueco	48–141–0057	66	65	65	66	70	70
Ascarate Park	48–141–0055	64	65	69	68	69	NA

C. Summary of the States' Submissions

On June 3, 2021, NMED submitted its ''Clean Air Act 179B Demonstration Sunland Park Ozone Nonattainment Area''. On February 28, 2022, TCEQ submitted ''Federal Clean Air Act El Paso County 179B Demonstration: El Paso-Las Cruces, Texas-New Mexico Nonattainment Area Final Report''. Collectively the agencies demonstrations evaluated whether, and the extent to which, ambient ozone levels in the El Paso-Las Cruces, Texas-New Mexico nonattainment area would be affected by emissions emanating from Municipio de Juárez, Mexico. As recommended in our guidance, these evaluations included an analysis of conceptual models of ozone formation in the nonattainment area and topographic conditions that influence ozone formation; an analysis of the ozone design value trends in the nonattainment area from 2016 to 2021; emissions inventory analysis comparing ozone precursor emissions in Doña Ana County, New Mexico and El Paso County, Texas to those in Municipio de Juárez, Mexico; ambient observational analyses of back-trajectories examining days in the nonattainment area; wind analysis evaluating wind direction on high ozone days; and photochemical air quality modeling exercises and evaluations estimating the contribution of cross-border, northern Mexico emissions to ozone design values in the nonattainment area.

1. Conceptual Models

NMED and TCEQ provided conceptual models describing ozone formation in the nonattainment area and topographical features of the binational, tristate airshed known as the Paso del Norte (PdN) airshed which consists of the City of Sunland Park, New Mexico; the City of El Paso, Texas; and the Municipio de Juárez, Mexico. The Rio Grande flows through the PdN generally from northwest to southeast along the Mesilla Valley and serves as the international border between Texas and Mexico. The PdN is a bowl shaped airshed that sits south of the Mesilla Valley and is saddled by the Franklin Mountains to the north in Texas and the Sierra de Juárez to the south in Mexico with Mount Cristo Rey sitting between them. The Franklin Mountains rise more than 3,280 ft above the valley floor and are approximately 14.4 miles long and 3.1 miles wide, separating the western third of El Paso from the eastern two-thirds of the city. The Franklin Mountain Range and Sierra De Juárez combined act as a funnel facilitating the southeast directional airflow movement while Mount Cristo Rey acts as a barrier, facilitating efficient mixing.

The climate of the PdN airshed is hot and arid with an average of less than nine inches of precipitation per year, 306 days of sunshine per year, and 15.4 days of daily high temperatures of 100 °F and above, which are conducive to ozone formation. Over 45 years of July wind data obtained from the El Paso Airport indicates that the wind direction predominates from the southeast with wind speeds of 5 meter per second or less.[24] Calm winds create a high potential for the production of ozone.

2. Design Value

The states provided trends in the ozone design values, number of days with maximum daily 8-hour ozone values greater than 70 ppb, and precursor emissions for 2011–2020. The precursor emissions in both states have declined while the design values have risen despite the drop in precursor emissions. This is discussed in greater detail in the Technical Support Document (TSD).

3. Emission Analysis for El Paso-Las Cruces, Texas-New Mexico Nonattainment Area

New Mexico and Texas provided tables of 2016 ozone precursor emissions (combined and shown in Table 3 of this document).[25] The Municipio de Juárez NO_X emissions are 2.5 times larger than El Paso County emissions and 4.5 times larger than Doña Ana County emissions. Generally, the Municipio de Juárez VOC emissions are 3 times larger than El Paso County emissions, 6 times larger than Doña Ana County emissions, and 39 times larger than Sunland Park emissions. As a reminder, Sunland Park is the only portion of Doña Ana County, New Mexico included in the nonattainment area.

TABLE 3—ANTHROPOGENIC EMISSION EVALUATION OF THE NONATTAINMENT AREA PREPARED BY NEW MEXICO AND TEXAS

Jurisdiction	NO_X (tpy)	Percent	VOC (tpy)	Percent
Municipio de Juárez, Mexico	39,744	64	33,363	67
Doña Ana County, NM	8,652	12.8	5,945	8.3
Sunland Park, NM	999	1.4	280	0.4
El Paso County, TX	14,640	23	11,166	22

[24] Demonstrations; Texas: 5–6; New Mexico: 5–7.

[25] TCEQ's Demonstration, page 14; NMED's Demonstration, page 17.

4. Ambient Observational Analysis—Back Trajectories

TCEQ's and NMED's demonstrations include an analysis of back trajectories created using the National Oceanic and Atmospheric Administration's (NOAA) Hybrid Single Particle Lagrangian Integrated Trajectory (HYSPLIT) model.[26] The analyses include trajectories for each exceedance day in 2016–2020 (Texas) and 2019–2020 (New Mexico) when the daily maximum eight-hour average ozone level was above 70 ppb at the El Paso UTEP, El Paso Chamizal, and Skyline Park monitors (Texas) and the Desert View monitor (New Mexico).

The TCEQ demonstration applied the HYSPLIT model using the READY (Real-time Environmental Applications and Display sYstem) application on the NOAA Air Resources Laboratory web server to trace the path of air parcels prior to arriving to El Paso County monitors on ozone exceedance days. For each ozone exceedance day at the El Paso UTEP, El Paso Chamizal, and Skyline Park monitors from 2016 through 2020 (a total of 93 site-days), the TCEQ generated eight 72-hour back trajectories, one trajectory arriving at each of the eight hours comprising the maximum daily average 8-hour ozone (MDA8) averaging period at a given monitor. The TCEQ reviewed the HYSPLIT back trajectories to determine whether at least 75% of the air parcels for that exceedance day traveled through Mexico. From this evaluation, TCEQ noted that exceedance days involved international contributions at the El Paso UTEP monitor 85% of the days, at El Paso Chamizal monitor 85% of the days, and at the Skyline Park monitor 61% of the days.

NMED's demonstration ran the back-trajectory HYSPLIT model for 72 hours using the North American Mesoscale Forecast System (NAMS) on the exceedance days and the corresponding number of non-exceedance days from 2019 through 2020. A total of eight trajectories were initiated one for each hour of the exceeding 8 hour average with a starting height of 100 meters above ground level. NMED then conducted a HYSPLIT back-trajectory test to determine an adjusted design value that would result from excluding internationally influenced exceedance dates. This approach does not quantify the international contribution, but simply assumes that days with clear transport linkages have sufficiently large international contributions that they would meet a ''but for'' test. Removing these dates from the data set affects the determination of the 4th annual maximum 8-hour average and the design value calculation for the Desert View monitoring site. For each exceedance date from 2016 to 2020, NMED reviewed the HYSPLIT back-trajectory to determine if 75% of the air parcels traveled through Municipio de Juárez airspace.[27] When the results indicated more than 75% of the air parcels traveled through Municipio de Juárez airspace, NMED concluded that the ozone maximum daily eight-hour average concentration was influenced by international emissions. The dates resulting in less than 75% of the air parcels that did not travel through Municipio de Juárez would remain on the list of exceedance dates to determine the adjusted fourth annual maximum 8-hour average and then to calculate the adjusted design value. New Mexico's results show that 80% of the exceedances are influenced by international emissions using this method. In this adjustment analysis only nine of the 46 original exceedances remained with six dates in 2018, one date in 2019, and two dates in 2020 included in the adjusted design value calculation.

5. Wind Evaluation

Both NMED and TCEQ conducted wind analysis. Both states presented summaries of wind patterns associated with a range of observed ozone concentrations, graphically depicting ozone pollution roses which show the frequency distribution of ozone concentration separately for each direction from which the wind is blowing. NMED and TCEQ both presented ozone pollution roses for non-exceedance days (MDA8 ozone less than 71 ppb) and exceedance days (MDA8 ozone greater than or equal to 71 ppb) from April through September 2016–2020 for the monitors closest to the Mexico border. Both NMED and TCEQ concluded that the highest hourly ozone concentration is associated with wind directions from Mexico. Figures of these analyses may be found in the TSD supporting this action and located in the docket.

In addition to the ozone pollution roses by wind direction discussed above, TCEQ also conducted a wind cluster analysis for El Paso County using data from the El Paso UTEP, El Paso Chamizal, and Skyline Park monitors. The cluster analysis relied on hourly resultant wind direction and wind speed obtained from the TCEQ's Texas Air Monitoring Information System (TAMIS) database and corresponding ozone values at each monitor obtained from the EPA Air Data website (*https://www.epa.gov/outdoor-air-quality-data*). Using this data, the analysis classified days in April through September 2011 through 2020 based on their similarity in terms of daily wind patterns, grouping days together with similar afternoon wind direction (because peak ozone typically occurs during afternoon hours). From these analyses, TCEQ concluded that a significant portion of exceedances days at each monitoring site occurred when wind blew from Municipio de Juárez. More information about TCEQ's ozone cluster analysis, including figures, may be found in the Technical Support Document for this document, located in the docket. NMED did not conduct an ozone cluster analysis.

6. Photochemical Modeling To Quantify International Contribution

As part of their demonstrations, NMED and TCEQ evaluated three models:

(1) *Southern New Mexico Ozone Study:* Contracted by NMED in 2016 to help understand the cause of high ozone values in Doña Ana County, New Mexico, with a 2011 base year and 2025 analytic year.

(2) *New Mexico Ozone Attainment Initiative:* Contracted by NMED in 2020 to help understand the impact of the Oil and Gas Sector emission on ozone values in New Mexico, with a 2014 base year and 2028 analytic year.

(3) *Final Revised Cross-State Air Pollution Rule Update:* Contracted by EPA in 2020 to determine impacts of transport of ozone and ozone precursors on downwind areas across the U.S. with a 2016 base year and 2021, 2023 and 2028 analytic years.

The methods used by each study are well documented in separate technical support documents and summarized in the TSD for this action which is located in the docket and summarized in both submissions.[28] The states compared the source apportionment studies generated by these models and found that the three models show that the ozone concentrations in the nonattainment area are significantly impacted by

[26] Demonstration; Texas: page 23, New Mexico: page 15 and Appendix A.

[27] 179B Guidance, 34.

[28] EPA, 2021. Environmental Protection Agency. Cross-State Air Pollution Rule 2016 Update. Office of Air Quality Planning and Standards, Research Triangle Park, NC. January 2021. *https://www.epa.gov/csapr/revised-cross-state-air-pollution-rule-update.*

WRAP, 2016. Southern New Mexico Ozone Study (SNMOS). Western Regional Air Partnership. November 2016. *https://www.wrapair2.org/SNMOS.aspx.* WRAP, 020. Ozone Attainment Initiative (OAI). Western Regional Air Partnership (May 2020). *https://www.wrapair2.org/nmoai.aspx.*

emissions from Mexico. These models show international contribution range from an estimated low of 4.11 ppb at the Chaparral, New Mexico monitor by the Southern New Mexico Ozone study to an estimated high of 17.79 ppb at the Skyline Park monitor by the Revised CASPR Update model.

D. EPA Review of the States' Submissions

Based on the Agency's review of the submissions described in section C, the EPA is proposing to find that Texas and New Mexico have successfully demonstrated that the El Paso-Las Cruces, Texas-New Mexico nonattainment area would have attained the 2015 ozone NAAQS but for emissions emanating from outside of the United States, consistent with CAA section 179B(b). This action discharges its statutory obligation under CAA section 181(b)(2) to determine whether the El Paso-Las Cruces, Texas-New Mexico nonattainment area attained the 2015 ozone NAAQS. Our rationale supporting the proposed approval of the State's 179B(b) demonstration and determination is summarized below. The full rationale is included in the TSD provided in the docket for this rulemaking.

NMED and TCEQ each provided a conceptual model describing the meteorology and topography of the area, an evaluation of ozone precursor emissions, and an analysis of ozone trends at monitors in the nonattainment area. We find that the following evidence supports the proposition that the Municipio de Juárez, Mexico emissions have a substantial influence on the El Paso-Las Cruces, Texas-New Mexico nonattainment area ozone levels: the topography and meteorology of the PdN area results in a single, shared multistate, binational airshed; Municipio de Juárez, Mexico ozone precursor emissions are much larger (currently approximately two and a half times greater) than El Paso-Las Cruces, Texas-New Mexico nonattainment area emissions; and ozone concentration trends in the nonattainment area have shown a steady increase despite the permanent and steady decrease of ozone precursor emissions at sources within the nonattainment boundary which is likely attributable to conditions in Mexico.

NMED ran the HYSPLIT model to generate 8-hour back-trajectories for each of the eight hours contributing to each 2019–2020 daily maximum 8-hour average ozone exceedance (greater than 70 ppb) at the Desert View monitor at 100 m altitude; TCEQ ran the HYSPLIT model to generate 8-hour back-trajectories for each of the eight hours contributing to each 2016–2020 exceedance day at the El Paso UTEP, El Paso Chamizal and Skyline Park monitors. As recommended in the 179B Guidance, the states flagged days that had at least 6 of the 8 hours originating from or traversing through Mexico as having likely influence from emissions emanating from Mexico.[29] New Mexico's results show that 80% of the exceedance days at the Desert View monitor are influenced by international emissions using this method. TCEQ noted that exceedance days involved international contributions at the El Paso UTEP monitor 85% of the days, at El Paso Chamizal monitor on 85% of the days, and at the Skyline Park monitor on 61% of the days. We conclude that the analysis of the 8-hour back trajectories passing over Municipio de Juárez, Mexico supports the conclusion that there is a direct international source-receptor relationship between Municipio de Juárez, Mexico and El Paso-Las Cruces, Texas-New Mexico nonattainment area on 2019–2020 (New Mexico) and 2016–2020 (Texas) exceedance days.

NMED and TCEQ also recalculated the 2020 design value excluding the days over 70 ppb identified to have been influenced by transport from Mexico, using a revised 4th high MDA8 ozone concentration for each year. The EPA notes that this method of recalculating the design value to exclude days which have international contributions doesn't contemplate whether the exceedance day is also affected by domestic emissions. In other words, a simple back-trajectory analysis merely identifies whether air parcels passed through an area prior to reaching a monitor but does not quantify or specify the amount of contribution. Therefore, a simple recalculation of the design value excluding days with influence from Mexico is not a conclusive ''but for'' analysis. However, the EPA agrees that the state's 8-hour back trajectory analysis in conjunction with the other lines of evidence shows that there is consistent, direct transport from the high-emissions Municipio de Juárez, Mexico on high ozone days to El Paso-Las Cruces, Texas-New Mexico nonattainment area monitors.

NMED and TCEQ followed the approaches described in the 179B Guidance using a photochemical modeling approach to quantify international emissions emanating from Municipio de Juárez, Mexico to the El Paso-Las Cruces, Texas-New Mexico nonattainment area ozone. The available modeling also supports our conclusion that the El Paso-Las Cruces, Texas-New Mexico multi-state nonattainment area would have attained the 2015 ozone NAAQS but for emissions from Mexico. As previously discussed, NMED and TCEQ used the model results to estimate the impact of cross-border, northern Mexico emissions on air quality. The results of this estimate were applied to the average of the 2016 and 2020 ozone design values at monitors in El Paso-Las Cruces, Texas-New Mexico nonattainment area and indicate near-source Mexico emissions contribute approximately of 4.11 ppb at the Chaparral, New Mexico monitor as modeled in the Southern New Mexico Ozone study to an estimated high of 17.79 ppb at the Skyline Park monitor modeled in the Revised CASPAR Update study. The EPA notes that the analyses here conservatively evaluate only cross-border emissions from northern Mexico and do not evaluate effects of international emissions from other parts of Mexico or elsewhere. Due to differences in each model (such as base year, date of emission inventory, year model conducted, and analytic year) the results, are not identical. Taken together, the analyses do support conclusions drawn by NMED and TCEQ, that ozone values in the nonattainment area are impacted by emissions from Mexico. The EPA analyzed the results of the modeling studies and found that they do support the states' conclusions and our determination that the area would have attained the NAAQS but for international contributions.

As discussed in the TSD, the EPA has performed additional analysis of its 2020 Ozone Policy Assessment (''2020 PA'') modeling[30] to provide broad U.S. and international source attribution for 2015 ozone NAAQS nonattainment areas in the year 2016.[31] The 2020 PA modeling predicts that the international anthropogenic ozone contribution to Doña Ana County, New Mexico[32] on the top 10 model days is 20.1 ppb, the second largest international anthropogenic contribution of any

[29] 179B Guidance, 34.

[30] U.S. EPA. (2020). Policy Assessment for the Review of the Ozone National Ambient Air Quality Standards (No. EPA–452/R–20–001). Research Triangle Park, NC: United States Environmental Protection Agency. Retrieved from *https://www.epa.gov/sites/production/files/2020-05/documents/o3-final_pa-05-29-20compressed.pdf.*

[31] Memorandum dated December 10, 2021, from Barron Henderson and Heather Simon (EPA, OAQPS), Subject: ''Designated Area Source Attribution Results Related to the National Determination of Attainment by the Attainment date (DAAD) Action.''

[32] This study evaluated ozone nonattainment areas that were designated before 2020. El Paso

nonattainment area in the country. In contrast to the modeling contracted by NMED, which quantifies only the small portion of the international contribution from near-source anthropogenic emissions in northern Mexico, the EPA's modeling quantifies impacts from all international anthropogenic emissions sources. This additional modeling indicates that international anthropogenic emissions have a significant impact on ozone in the El Paso-Las Cruces, Texas-New Mexico nonattainment area, and that emissions from northern Mexico, while having a substantial effect, are only a portion of the total contribution from all international anthropogenic sources to the El Paso-Las Cruces, Texas-New Mexico nonattainment area ozone design values. The analyses presented in this proposed action all support the conclusion that Mexican anthropogenic emissions are a major factor contributing to ozone exceedances in the El Paso-Las Cruces, Texas-New Mexico nonattainment area.

In conclusion, NMED's and TCEQ's retrospective 179B(b) demonstration includes multiple lines of evidence consistent with the types of analyses recommended in our 179B Guidance.[33] These analyses appropriately focus on 2018, 2019, and 2020, which are the key years for demonstrating attainment for a Marginal nonattainment area for the 2015 ozone NAAQS. We agree that each line of evidence supports the conclusion that the 2020 ozone design values at all monitoring sites in the El Paso-Las Cruces, Texas-New Mexico nonattainment area would be at or below 70 ppb but for the influence of Mexican emissions. NMED's and TCEQ's analyses focus on the influence of international contributions from the bordering Municipio de Juárez, Mexico near-by northern Mexico contributions. Ozone is both a local and regional problem. Contributions from sources in Mexico much farther away from the El Paso-Las Cruces, Texas-New Mexico nonattainment area than Municipio de Juárez also contribute to the nonattainment area; as such, EPA views the states each state's analysis to be a conservative approach to analyzing ''international contributions.'' Based on the evaluation of these analyses as a whole, the EPA finds that the El Paso-Las Cruces, Texas-New Mexico nonattainment area would have attained the 2015 ozone NAAQS by the August 3, 2021 attainment date but for emissions emanating from Mexico.

[33] 179B Guidance, Section 6.

III. Environmental Justice Considerations

Executive Order 12898 (59 FR 7629, February 16, 1994) requires that federal agencies, to the greatest extent practicable and permitted by law, identify and address disproportionately high and adverse human health or environmental effects of their actions on minority and low-income populations. Additionally, Executive Order 13985 (86 FR 7009, January 25, 2021) directs federal government agencies to assess whether, and to what extent, their programs and policies perpetuate systemic barriers to opportunities and benefits for people of color and other underserved groups, and Executive Order 14008 (86 FR 7619, February 1, 2021) directs federal agencies to develop programs, policies, and activities to address the disproportionate health, environmental, economic, and climate impacts on disadvantaged communities.

To identify environmental burdens and susceptible populations in underserved communities in the El Paso-Las Cruces, Texas-New Mexico nonattainment area and to better understand the context of our proposed approval of NMED's and TCEQ's 179B(b) demonstrations on these communities, we conducted a screening-level analysis using the EPA's environmental justice (EJ) screening and mapping tool (''EJSCREEN'').[34] Our screening-level analysis indicates that communities affected by this proposed action score above the national average for the EJSCREEN ''Demographic Index,'' which is the average of an area's percent minority and percent low income populations, *i.e.,* the two demographic indicators explicitly named in Executive Order 12898.[35] Communities in this area also score above the national average for the ''linguistically isolated population,'' and ''population with less than high school education'' indicators. Additionally, these communities score above the national average for numerous EJ Index indicators, including the $PM_{2.5}$ EJ index and the respiratory hazard EJ Index. We also looked at ozone design values for the 2018–2020 period as an indicator of potential ozone pollution exposure.[36] The Desert View (NM), Santa Teresa (NM), El Paso UTEP (TX), El Paso Chamizal (TX) and Skyline Park (TX) monitors score above the national average design value for this period.[37]

As discussed in the EPA's EJ technical guidance, people of color and low-income populations, such as those in the El Paso-Las Cruces, Texas-New Mexico nonattainment area, often experience greater exposure and disease burdens than the general population, which can increase their susceptibility to adverse health effects from environmental stressors.[38] Underserved communities may have a compromised ability to cope with or recover from such exposures due to a range of physical, chemical, biological, social, and cultural factors.[39] In addition to the demographic and environmental indicators identified in our screening level analysis, the proximity of underserved communities to the border with Mexico and the resulting exposure to levels of ozone that exceed the

[34] EJSCREEN provides a nationally consistent dataset and approach for combining environmental and demographic indicators. EJSCREEN is available at *https://www.epa.gov/ejscreen/what-ejscreen*. The EPA used EJSCREEN to obtain environmental and demographic indicators representing the El Paso County, Texas and Doña Ana County, New Mexico, specifically targeting the areas closest to the nonattainment monitors, which are located adjacent to the border with Mexico and measures the highest levels of ozone in the nonattainment area, where the overwhelming majority of the population resides. These indicators are included in EJSCREEN reports that are available in the rulemaking docket for this action.

[35] EJSCREEN reports environmental indicators (*e.g.,* air toxics cancer risk, Pb paint exposure, and traffic proximity and volume) and demographic indicators (*e.g.,* people of color, low income, and linguistically isolated populations). The score for a particular indicator measures how the community of interest compares with the state, the EPA region, or the national average. For example, if a given location is at the 95th percentile nationwide, this means that only five percent of the US population has a higher value than the average person in the location being analyzed. EJSCREEN also reports EJ indexes, which are combinations of a single environmental indicator with the EJSCREEN Demographic Index. For additional information about environmental and demographic indicators and EJ indexes reported by EJSCREEN, see EPA, ''EJSCREEN Environmental Justice Mapping and Screening Tool—EJSCREEN Technical Documentation,'' Section 2 (September 2019).

[36] The ozone metric in EJSCREEN represents the summer seasonal average of daily maximum 8-hour concentrations (parts per billion, ppb) and was not used in our EJ analyses because it does not represent summertime peak ozone concentrations, which are instead represented here by the design value (DV) metric. Ozone DVs are the basis of the attainment determination in this proposed action, and in this case, we consider it a more informative indicator of pollution burden relative to the El Paso-Las Cruces, Texas-New Mexico nonattainment area and the U.S. as a whole.

[37] The 2020 ozone design value for the Desert View (78 ppb) is in the 94th percentile, Santa Teresa (74 ppb) is in the 89th percentile, El Paso UTEP (76 ppb) is in the 92nd percentile, El Paso Chamizal (74 ppb) is in the 89th percentile, and Skyline Park (73 ppb) is in the 87th percentile among 2020 ozone design values nationally. The percentiles were calculated using data available at *https://www.epa.gov/system/files/documents/2022-05/O3_DesignValues_2019_2021_FINAL_05_25_22.xlsx,* Table 6. Site Trend, column T (''2018–2020 Design Value (ppm)'').

[38] EPA, ''Technical Guidance for Assessing Environmental Justice in Regulatory Analysis,'' section 4 (June 2016).

[39] Id. section 4.1.

NAAQS contributes to the potential EJ concerns faced by communities in the El Paso-Las Cruces, Texas-New Mexico nonattainment area.

If finalized, this proposed action to approve New Mexico's and Texas's demonstrations that the El Paso-Las Cruces, Texas-New Mexico nonattainment area would have attained the standard by the statutory attainment date, but for emissions emanating from Mexico, would result in the area retaining its Marginal classification. The area will retain its designation as nonattainment and continue to implement nonattainment new source review, but will not be reclassified as ''Moderate'' and the States will not be required to submit a plan demonstrating attainment or to adopt additional control measures, consistent with CAA section 179B(b).[40] As a result, the EPA will not be requiring the States to impose additional control measures for purposes of the 2015 ozone NAAQS that could serve to reduce ozone exposure in the area, even if they would not result in actual attainment of the NAAQS due to the influx of ozone and its precursors from Mexico.

In addition, the EPA notes that there are other efforts underway to reduce environmental burden along the U.S-Mexico border, including at the El Paso-Las Cruces, Texas-New Mexico nonattainment area. The United States and Mexico have long recognized the environmental challenges in the border region and share the goal of protecting the environment and public health in the U.S.-Mexico border region. The two nations have been working together outside the framework of the SIP process to make progress towards those goals.

The U.S.-Mexico Environmental Program (''Border 2025'') is a five-year (2021–2025) binational effort designed ''to protect the environment and public health in the U.S.-Mexico border region, consistent with the principles of sustainable development.'' [41] Border 2025 is the latest of a series of cooperative efforts implemented under the 1983 La Paz Agreement. It builds on previous binational efforts (*i.e.,* the Border 2012 and Border 2020 Environmental Programs), emphasizing regional, bottom-up approaches for decision making, priority setting, and project implementation to address the environmental and public health problems in the border region. As in the previous two border programs, Border 2025 encourages meaningful participation from communities and local stakeholders and establishes guiding principles that will support the mission statement, ensure consistency among all aspects of the Border 2025 Program, and continue successful elements of previous binational environmental programs.

Border 2025 sets out four strategic goals, including the reduction of air pollution and the improvement of water quality, to address environmental and public health challenges in the border region. Within the goals are specific objectives that identify actions that will be taken in support of the program's mission. The goals and objectives were determined binationally between the EPA and the Ministry of Environment and Natural Resources of Mexico (SEMARNAT) to address ongoing environmental challenges and considered input from state and tribal partners. The Joint Advisory Committee (JAC) is a binational committee made up of private citizens, private sector representatives, university officials, federal, state, and local government officials, and non-governmental environmental and public health organizations. The JAC is charged with the development and recommendation of air quality improvement projects and programs to the Air Work Group established under the 1983 U.S.-Mexico La Paz Agreement. The JAC serves as the local community-based organization overseeing the process to achieve cleaner air for the Paso del Norte region and air group under the Border 2020 Program.

The air agencies did not evaluate environmental justice considerations as part of their SIP submittals; the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. EPA performed an environmental justice analysis, as is described above. The analysis was done for the purpose of providing additional context and information about this rulemaking to the public, not as a basis of the action. In addition, there is no information in the record upon which this decision is based inconsistent with the stated goal of E.O. 12898 of achieving environmental justice for people of color, low-income populations, and Indigenous peoples. We acknowledge that the El Paso-Las Cruces, Texas-New Mexico nonattainment area includes minority and low-income populations that could be affected by this action.

The EPA believes it is important to recognize those potential effects even when taking actions under a statutory provision like 179B that, in this case, largely constrains the Agency from considering such effects in its final decision. As discussed in Section I.B. of this document, each State has met the requirements for ozone nonattainment areas classified as Marginal. Moreover, the EPA continues to work in to reduce disproportionate health, environmental, economic, and climate change impacts in the El Paso-Las Cruces, Texas-New Mexico nonattainment area, including those described in this section above.

IV. Proposed Action

For the reasons discussed in this document, we are proposing to determine, consistent with our evaluation of the ''Clean Air Act Section 179B Demonstration Sunland Park Ozone Nonattainment Area'' and the ''Federal Clean Air Act El Paso County § 179B Demonstration: El Paso-Las Cruces, Texas-New Mexico Nonattainment Area Final Report'', that the El Paso-Las Cruces, Texas-New Mexico multi-state nonattainment area would have attained the 2015 ozone NAAQS by the Marginal area attainment date of August 3, 2021, but for emissions emanating from outside the United States. If finalized, the EPA's obligation under section 181(b)(2)(A) to determine whether the area attained by its attainment date will no longer apply and the area will not be reclassified. The area will remain designated nonattainment and thus New Mexico and Texas will both continue to comply with applicable requirements for a Marginal ozone nonattainment area.

The EPA is soliciting public comments on the issues discussed in this document. We will accept comments from the public on this proposal until April 6, 2023 and will consider comments before taking final action.

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely proposes to approve state law as meeting Federal requirements and does not impose additional requirements

[40] In light of the overall health and clean air objectives of the CAA, the EPA encourages the States to continue to evaluate and, where feasible, implement measures that would further reduce emissions and contribute to improved air quality in the El Paso-Las Cruces, Texas-New Mexico Nonattainment area.

[41] ''Border 2025: United States—Mexico Environmental Program,'' included in this docket and accessible at *https://www.epa.gov/sites/default/files/2021-05/documents/final_us_mx_border_2025_final_may_6.pdf.*

beyond those imposed by state law. For that reason, this action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the proposed rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, and Ozone.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: February 28, 2023.

Earthea Nance,

Regional Administrator, Region 6.

[FR Doc. 2023–04634 Filed 3–6–23; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 70

[EPA–R03–OAR–2022–0166; FRL–10673–01–R3]

Air Plan Approval; Pennsylvania; Revisions To Plan Approval and Operating Permit Fees Rule and Title V Operating Permit Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve both a state implementation plan (SIP) revision and title V operating permits program revision submitted by the Pennsylvania Departmental of Environmental Protection (PADEP) on behalf of the Commonwealth of Pennsylvania. The SIP revision pertains to Pennsylvania's existing plan approval and operating permit program fee rules. The revision increases existing plan approval application and operating permit fees. The title V operating permit program revision amends the title V operating permit program fee schedules that fund the Pennsylvania title V operating permit program.

DATES: Written comments must be received on or before April 6, 2023.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R03–OAR–2022–0166 at *www.regulations.gov.* For comments submitted at *Regulations.gov,* follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *www.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Yongtian He, Permits Branch (3AD10), Air & Radiation Division, U.S. Environmental Protection Agency, Region III, Four Penn Center, 1600 JFK Boulevard, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814–2339. Mr. He can also be reached via electronic mail at *He.Yongtian@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On July 20, 2021, PADEP submitted a revision to both Pennsylvania's SIP and its title V operating permit program approval codified in 40 CFR part 70 appendix A (relating to approval status of state and local operating permits programs). Additionally, on January 3, 2023, PADEP submitted a letter clarifying which portions of the submittal were intended to be SIP revisions, and which were intended to be revisions to Pennsylvania's title V operating permit program. The submittal consists of revisions amending 25 Pennsylvania (PA) Code Chapters 121 (relating to general provisions) and 127, Subchapters F and I (relating to operating permit requirements; and plan approval and operating permit fees). The revisions increase existing plan approval application and operating permit fees. They also implement new fees for requests for determination, which is a process PADEP conducts when a source requests the PADEP to determine whether certain permitting requirements are applicable to the specific source, or the source is exempt from these requirements. Pennsylvania indicates that these revisions are necessary to ensure that fees are sufficient to cover the costs of administering the plan approval application and operating permit process as required by section 502(b) of the Clean Air Act (42 U.S.C.A. section 7661a(b)) and section 6.3 of the Air Pollution Control Act (35 Pennsylvania Statute section 4006.3). The documents associated with PADEP submission can be found at *https://www.regulations.gov,* Docket ID No. EPA–R03–OAR–2022–0166.

A. SIP Revision

Section 110(a)(2)(L) of the Clean Air Act (CAA) requires SIPs to include requirements that the owner or operator of each major stationary source pay to the permitting authority, as a condition of any permit required by the CAA, fees sufficient to cover reasonable costs of acting on the permit as well as

implementing and enforcing the terms and conditions of the permit. EPA has previously approved Pennsylvania code Chapter 121 general provisions definitions at 25 PA code 121.1, Chapter 127 public notice requirement in section 127.424, and Pennsylvania's plan approval and operating permit fee regulation at 25 PA Code 127.701, 127.702, 127.703, and 127.707, into the Pennsylvania SIP in accordance with section 110 of the CAA. See 61 FR 39597 (July 30, 1996).

This SIP revision would approve into the Pennsylvania SIP of PADEP's revised regulatory language in 25 PA Code Chapter 121 section 121.1, and Chapter 127 sections 127.424, 127.702, and 127.703, and adds sections 127.465, 127.709 and 127.710. The specifics of the revision are described in Section II.A of this rulemaking.

B. Title V Operating Permit Program Revision

EPA granted full approval of the Pennsylvania title V operating permits program on July 30, 1996. See 61 FR 39597. Under 40 CFR 70.9(a) and (b), an approved state title V operating permit program must require that the owners or operators of part 70 sources pay annual fees, or the equivalent over some other period, that are sufficient to cover the permit program costs and ensure that any fee required under 40 CFR 70.9 is used solely for permit program costs. The fee schedule must result in the collection and retention of revenues sufficient to cover the permit program implementation and oversight costs. CAA 502(b)(3)(A). Pennsylvania's initial title V operating permit emission fee was established in 1994 at 25 PA Code 127.705. See 80 FR 14037 (March 18, 2015). In a February 11, 2014 title V operating permit program revision, Pennsylvania previously revised 25 PA Code 127.705 to increase annual emission fees for title V sources, noting that annual emissions fees were no longer sufficient to cover costs. See 80 FR 40922 (July 14, 2015).

In the PADEP submission, PADEP indicated that the currently approved fee structure is insufficient to continue to support the title V program, and as a result PADEP has revised Sections 127.704 and 127.705, and has submitted these revisions for EPA action pursuant to CAA 502(d). EPA is considering approving these revisions into Pennsylvania's title V operating permit program. The specifics of the revision are described in Section II.B of this rulemaking.

II. Summary of SIP Revision, Title V Operating Permit Program Revision and EPA Analysis

A. SIP Revision

This revision amends Pennsylvania's SIP by approving PADEP's amendments to 25 PA Code Chapters 121 and 127. PADEP proposed new fees in this revision for the applications of plantwide applicability limits; ambient air impact modeling of certain plan approval applications; risk assessments; and requests for determination (RFD) in order to ensure the continued solvency of its Clean Air Fund.

Specifically, the revision proposes to approve Pennsylvania's SIP submittal that PADEP amended 25 PA Code Chapters 121 and 127, sections 121.1, 127.424, 127.702, and 127.703, and adds sections 127.465, 127.709 and 127.710. PADEP added the definition of ''synthetic minor facility'' in the definition section 121.1 and corrected a cross-reference error in public notice section 127.424. PADEP amended section 127.702 that establishes plan approval fees, and section 127.703 that establishes Operating permit fees under Subchapter F (State Operating Permit Requirements) for the future years in details based on year and permit categories. The newly added section 127.465 establishes the procedures the owner or operator of a stationary air contamination source or facility shall follow to make a significant modification to an applicable operating permit. New section 127.709 establishes fees for requests for determination, for whether a plan approval, an operating permit, or both, are needed for the change to the facility.[1] Section 127.710 establishes application fees for the use of general plan approvals and general operating permits for stationary or portable sources.

The revisions to Pennsylvania's SIP satisfy CAA section 110(a)(2)(L), which mandates that SIPs require the owner or operator of each major stationary source to pay to the permitting authority a fee sufficient to cover (i) the reasonable costs of reviewing and acting upon any application for such a permit, and (ii) if the owner or operator receives a permit for such source, the reasonable costs of implementing and enforcing the terms and conditions of any such permit. The revision makes the Pennsylvania SIP more up to date with fee schedules and meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

B. Title V Operating Permit Program Revision

The revision to Pennsylvania's title V program proposes to approve PADEP's submission that amends Chapter 127 sections 127.704 and 127.705. Section 127.704 establishes title V operating permit fees, and section 127.705 require the owner or operator of a title V facility to pay annual title V emission fees.

A key provision of the title V operating permit program is the requirement to establish a financially adequate permit fee schedule that results in the collection and retention of revenues sufficient to cover all reasonable costs required to develop and administer the title V operating permit program as required by 40 CFR 70.9(a) and (b). Title V permit fees are used to implement and enforce the permitting program, including reviewing and processing plan approvals and operating permits, review renewals of existing permits; monitoring facility compliance; taking enforcement actions for noncompliance; performing monitoring, modeling and analysis; tracking facility emissions; conducting inspections, responding to complaints and pursuing enforcement actions, emissions and ambient air monitoring, preparing applicable regulations and guidance, and preparing emission inventories. See 40 CFR 70.9(b).

According to its submission, PADEP has recently experienced a declining in fee revenue due to emissions reductions at major facilities. PADEP has submitted to EPA a detailed economic analysis that justifies its need to increase its title V operating permit fees. See 51 Pa.B. 283 (January 16, 2021), Docket ID No. EPA–R03–OAR–2022–0166. PADEP's economic analysis concluded that Pennsylvania's title V operating permit and annual emission fee revenues collected are no longer sufficient to cover title V operating permit program costs. The state's revision does not increase the title V emission fee under section 127.705. The amendment to section 127.705 clarifies the use of the Consumer Price Index for the prescribed annual increases. PADEP concluded that the fee adjustments in section 127.704 were needed to bring Pennsylvania's title V operating permit program fee revenue in line with

[1] Pennsylvania has a merged permit program. A merged permit means there is only one permit for each source; the preconstruction permit (called ''plan approval'') gets merged into the facility's operating permit (title V) at the end of the shakedown period—typically via an administrative amendment. Every major and minor modification at a title V source requiring a plan approval undergoes public participation since it will modify the source's title V permit; such plan approvals must be ''title V ready'', *i.e.,* plan approval must meet requirements of both preconstruction permit and title V operating permit.

expenditures so that the program is self-sustaining as required under the CAA.

Regulations related to the fee schedules for plan approval and operating permit activities were last revised in November 1994, with staged increases occurring over the ensuing 10 years. The last of the staged plan approval and operating permit fee increases occurred in January 2005. PADEP revised the title V annual emission fee under section 127.705 (relating to emission fees) in 2013 and submitted to EPA in 2014, and EPA approved the revision in 2015. See 80 FR 40922 (July 14, 2015). At that time, the PADEP projected that the increased annual emission fee would not be sufficient to maintain the solvency of the title V account in its Clean Air Fund, and noted that a revised annual emission fee or other revised permitting fees would be needed within 3 years.

Pennsylvania indicates that these amendments to its title V operating permit program ensure that fees will remain sufficient to cover the costs of administering the plan approval application and operating permit process as required by section 502(b) of the CAA and section 6.3 of the Air Pollution Control Act. Without this fee increase and new fees to be collected, Pennsylvania had anticipated funds will not be sufficient to sustain the title V operating permit program. If funds were to become insufficient to sustain the title V operating permit program in Pennsylvania, EPA may determine that Pennsylvania has not taken ''significant action to assure adequate administration and enforcement of the Program'' and take subsequent required action under 40 CFR 70.10(b) and(c) as well as impose sanctions under the CAA.

Based on the 40 CFR part 70 presumptive minimum fee rate from the September 16, 2021, EPA Office of Air Quality Planning and Standards memorandum,[2] the requirements of 40 CFR 70.9(b)(2) and the economic analysis by PADEP, EPA finds that the July 20, 2021, PADEP submission has met the requirements of CAA section 502(b)(1)–(10), and is consistent with applicable EPA requirements in title V operating permit program of the CAA and 40 CFR part 70. This rulemaking proposes approval of the increased fees and new fees because the changes meet requirements in 40 CFR 70.9 for sufficient title V fees to cover permit program costs.

[2] *www.epa.gov/system/files/documents/2022-09/FEE70_2023.pdf.*

III. Proposed Action

EPA is proposing to approve the Pennsylvania July 20, 2021, submittal pertaining to the permitting program fees based on PADEP's clarification of January 3, 2023 as revisions, described above, to both the Pennsylvania SIP and Pennsylvania's approved title V operating permit program. The SIP submittal is in accordance with requirements in section 110(a)(2)(L) of the CAA and implement regulations. Additionally, because the title V submittal meets the requirements of CAA sections 502(b)(1) through (10), pursuant to CAA 502(d), EPA is proposing to approve the Pennsylvania title V operating permit program revision submitted on July 20, 2021 and clarified on January 3, 2023. The title V revision meets the requirements in 40 CFR 70.9. EPA is soliciting public comments on both the SIP revision and title V operating permit program revision discussed in this document. These comments will be considered before taking final action.

IV. Incorporation by Reference

In this document, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference the Pennsylvania Regulation described in the amendments to 25 PA Code 127, as discussed in section II.A of this rulemaking. EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and at the EPA Region 3 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

V. Statutory and Executive Order Reviews

A. General Requirements

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Under the CAA, the Administrator approves title V operating permit program revisions pursuant to that comply with the Act and applicable Federal Regulations. See 42 U.S.C. 7661a(d). Thus, in reviewing SIP and title V operating permit program submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. This action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rulemaking does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP revision to Pennsylvania's existing plan approval and operating permit program fee rules is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Lead, Nitrogen dioxide, Operating permits, Ozone, Particulate Matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Adam Ortiz,

Regional Administrator, Region III.

[FR Doc. 2023–04164 Filed 3–6–23; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 22–1334; MB Docket No. 22–430; RM–11939; FR ID 119401]

Radio Broadcasting Services; Wharton, Texas

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed by 7430 Technologies LLC, proposing to amend the FM Table of Allotments, by allotting Channel 277C2 at Wharton, Texas, as the community's second local service. A staff engineering analysis indicates that Channel 277C2 can be allotted to Wharton, Texas, consistent with the minimum distance separation requirements of the Commission's rules, with a site restriction of 2.1 km (1.3 miles) west of the community. The reference coordinates are 29–18–26 NL and 96–07–50 WL.

DATES: Comments must be filed on or before April 6, 2023, and reply comments on or before April 21, 2023.

ADDRESSES: Secretary, Federal Communications Commission, 45 L Street NE, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the counsel to petitioner as follows: Lee G. Petro, PILLSBURY WINTHROP SHAW PITTMAN LLP, 1200 Seventeenth Street NW, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Rolanda F. Smith, Media Bureau, (202) 418–2054.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Federal Communications Commission's (Commission) Notice of Proposed Rule Making, MB Docket No. 22–430, adopted December 15, 2022, and released December 15, 2022. The full text of this Commission decision is available online at *https://apps.fcc.gov/ecfs.* The full text of this document can also be downloaded in Word or Portable Document Format (PDF) at *https://www.fcc.gov/edocs.* This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any proposed information collection burden ''for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4).

Provisions of the Regulatory Flexibility Act of l980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. *See* 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, *see* 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

Federal Communications Commission.

Nazifa Sawez,

Assistant Chief, Audio Division, Media Bureau.

Proposed Rules

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 155, 301, 303, 307, 309, 310, 334, 336, 339.

■ 2. In § 73.202, in paragraph (b), amend the Table of FM Allotments under Texas by adding an entry for ''Wharton'' to read as follows:

§ 73.202 Table of Allotments.

* * * * *

(b) * * *

TABLE 1 TO PARAGRAPH (b)

[U.S. States]

	Channel No.
* * * * *	
Texas	
* * * * *	
Wharton	277C2
* * * * *	
* * * * *	

[FR Doc. 2023–04625 Filed 3–6–23; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 36

[Docket No. FWS–R7–NWRS–2017–0058; FXRS12610700000–212–FF07R00000]

RIN 1018–BC74

Refuge-Specific Regulations; Public Use; Kenai National Wildlife Refuge

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; withdrawal.

SUMMARY: The U.S. Fish and Wildlife Service (Service, we) is withdrawing our June 11, 2020, proposed rule to amend the refuge-specific regulations for Kenai National Wildlife Refuge (NWR, Refuge) related to the harvest of brown bears at bait stations, trapping under State law without a Federal permit, discharge of firearms along the Kenai and Russian Rivers, increased access for the use of bicycles and game carts, and the use of snowmobiles, all-terrain vehicles, and utility task vehicles on certain lakes when there is adequate snow and ice cover. Based on the extensive public comments submitted in opposition to the June 11, 2020, proposed rule and new information and scientific literature not previously considered, we have determined that the best course of action is to withdraw the proposed rule.

DATES: The proposed rule that published on June 11, 2020 (85 FR 35628), to amend the refuge-specific regulations for Kenai NWR is withdrawn on March 7, 2023.

FOR FURTHER INFORMATION CONTACT: Brian Glaspell, Alaska National Wildlife

Refuge Chief, Alaska Regional Office, 1011 East Tudor Road, Anchorage, AK 99503; telephone: 907–786–3584. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION:

Background

On June 11, 2020, the Service published in the **Federal Register** (85 FR 35628) a proposed rule to amend the refuge-specific regulations for Kenai NWR at 50 CFR 36.39 to allow the harvest of brown bears at registered bait stations, allow for trapping under State law without a Federal permit, allow the discharge of firearms along the Kenai and Russian Rivers at certain times of year, increase access by bicycles and game carts, and allow snowmobiles, all-terrain vehicles, and utility task vehicles on certain lakes when there is adequate snow and ice cover.

Refuge management is governed by Federal laws, such as the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–668ee), as amended by the National Wildlife Refuge System Improvement Act of 1997 (Improvement Act; Pub. L. 105–57) (Refuge Administration Act, as amended); the Alaska National Interest Lands Conservation Act of 1980 (Pub. L. 96–487) (ANILCA); and the Wilderness Act of 1964 (16 U.S.C. 1131 *et seq.*) (Wilderness Act); by regulations implementing these laws; by treaties; by Service policy; and by principles of sound resource management that establish standards for resource management or limit the range of potential activities (*e.g.,* visitor use opportunities administered via special use permitting) that may be allowed on the Refuge.

Our authority to enact refuge-specific regulations stems from the Refuge Administration Act, as amended, which states that when the Secretary determines that a proposed wildlife-dependent recreational use is a compatible use within a refuge, that activity should be facilitated, subject to such restrictions or regulations as may be necessary, reasonable, and appropriate (16 U.S.C. 668dd(a)(3)(D)). This authority was affirmed in ANILCA (sec. 304(b)). Service regulations at 50 CFR 36.31(a) state that public recreational activities within the Alaska NWRs are authorized if such activities are conducted in a manner compatible with the purposes for which the areas were established. Such recreational activities include, but are not limited to, sightseeing, nature observations and photography, hunting, fishing, boating, camping, hiking, picnicking, and other related activities. Therefore, we manage public recreational activities on the Refuge to ensure they are conducted in manner compatible with the purposes of the Refuge and the mission of the National Wildlife Refuge System, as well as to avoid conflict between the various recreational activities, with priority given to wildlife-dependent recreation.

ANILCA's section 303(4)(B) establishes the following as the purposes of Kenai NWR:

(i) To conserve fish and wildlife populations and habitats in their natural diversity, including, but not limited to, moose, bears, mountain goats, Dall sheep, wolves and other furbearers, salmonoids and other fish, waterfowl and other migratory and nonmigratory birds;

(ii) To fulfill the international treaty obligations of the United States with respect to fish and wildlife and their habitats;

(iii) To ensure, to the maximum extent practicable and in a manner consistent with the purposes set forth in paragraph (i), water quality and necessary water quantity within the Refuge;

(iv) To provide, in a manner consistent with paragraphs (i) and (ii), opportunities for scientific research, interpretation, environmental education, and land management training; and

(v) To provide, in a manner compatible with these purposes, opportunities for fish and wildlife-oriented recreation.

The Wilderness Act created additional purposes for the Kenai NWR. The Wilderness Act states in part that designated wilderness areas are to be managed for the use and enjoyment of the American people in such manner as will leave them unimpaired for future use and enjoyment as wilderness, and so as to provide for the protection of these areas, the preservation of their wilderness character, and for the gathering and dissemination of information regarding their use and enjoyment as wilderness (16 U.S.C. 1131(a)). In addition, the Wilderness Act provides that each agency administering wilderness areas shall be responsible for preserving the wilderness character of the area and shall so administer such area for such other purposes for which it may have been established as also to preserve its wilderness character. Except as otherwise noted in the Wilderness Act, wilderness areas shall be devoted to the public purposes of recreational, scenic, scientific, educational, conservation, and historical use (16 U.S.C. 1133(b)). The Refuge's wilderness purposes apply to the approximately 1.3 million acres of the Congressionally designated Kenai Wilderness.

On June 11, 2020, we published in the **Federal Register** (85 FR 35628) a proposed rule to amend Kenai NWR's public use regulations. We had two public comment periods on the proposed rule for a total of 90 days (see 85 FR 35628, June 11, 2020; and 85 FR 64106, October 9, 2020), and we held two virtual public hearings (on October 26 and 27, 2020; see 85 FR 64106, October 9, 2020). Of the almost 50,000 comments on the proposed rule, all but 123 opposed all or part of the proposed changes. In addition, we received over 95,000 campaign letters in the form of attachments to letter submissions from various organizations and groups that opposed the proposed rule.

Based on the extensive public comments we received on the proposed rule, as well as new information and scientific literature not previously considered and our sound professional judgment, we have determined that the best course of action is to withdraw the entirety of the June 11, 2020, proposed rule, as discussed further below.

Commenters expressed concerns that the June 11, 2020, proposed rule, particularly the provisions allowing brown-bear baiting and removing restrictions on trapping on the Refuge to align with State regulations, would have significant adverse impacts on brown bears, furbearers, non-target wildlife, and visitor use and safety. Many commenters stated that these provisions of the proposed rule conflicted with the purposes of the Kenai NWR and the Service's responsibilities for managing Alaska NWRs, as outlined in ANILCA and the Refuge Administration Act, as amended. Many commenters stated that the proposed changes would materially detract from the Refuge's mandate in ANILCA to protect wildlife in its ''natural diversity.'' Commenters also stated that we had not properly complied with the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*) in adequately analyzing the impacts of the proposed rule; that we had not met our obligations under ANILCA and the Improvement Act to ensure all recreation on Kenai NWR is compatible with the purposes of the Refuge and the mission of the National Wildlife Refuge

System; and that we had not provided reasonable justification for the major change in the Service's position on these issues as required by the Administrative Procedure Act (5 U.S.C. 551 *et seq.*).

We have never authorized the harvest of brown bears over bait on Kenai NWR. The current regulations prohibiting harvest of brown bears over bait on the Refuge promulgated by a May 5, 2016, final rule (81 FR 27030) codified a prohibition previously in place through a special condition of the Federal special use permit required for the taking of black bears over bait on the Refuge that in turn prohibited the taking of any other species over bait. This prohibition was determined necessary to meet our mandates under ANILCA to conserve healthy populations of wildlife in their natural diversity on the Refuge, especially as bears are explicitly referenced as one of the species the Refuge is mandated to conserve (as discussed above; see section 303(4)(B) of ANILCA). In addition, we determined the prohibition was necessary to maintain the wilderness character of the Kenai Wilderness as mandated by the Wilderness Act (see 16 U.S.C. 1133(b)) and to meet the Refuge's purpose for providing compatible wildlife-oriented recreational opportunities (both consumptive and non-consumptive). After reviewing the public comments, new information on recent annual levels of human-caused brown bear mortalities on the Kenai Peninsula, and additional scientific literature, we find that the prohibition of harvest of brown bears over bait on the Refuge is still necessary.

We continue to believe, as discussed in the May 5, 2016, final rule (81 FR 27030), that allowing the harvest of brown bears over bait on the Refuge has a high potential to result in adverse impacts to the Refuge's brown bear population, and that a cautious approach to management of Kenai Peninsula brown bears remains scientifically warranted. Brown bears have one of the lowest reproductive potentials of any North American mammal, and at current densities, the Kenai brown bear population remains a relatively small population (Morton et al. 2016) that is highly sensitive to adult female and overall human-caused mortality levels. Genetics studies have determined that Kenai brown bears comprise an insular population (reported in the Canadian Journal of Zoology in 2008 by Jackson et al.), which means that immigration from mainland Alaska will not assist in sustaining the population, and that Kenai brown bears have very low haplotypic genetic diversity (Jackson et al. 2008), which has unknown but potentially important conservation implications.

The Kenai brown bear population will continue to be strongly influenced by habitat loss and fragmentation and by multiple potential sources of human-caused mortality as the human population continues to grow on the Kenai Peninsula and recreational use of public lands increases. Additionally, timely and accurate monitoring of the status of the Kenai Peninsula brown bear population is extremely difficult at best, costs associated with monitoring are high, and funding for monitoring is usually limited and never guaranteed. This is important given that the increased effectiveness of harvesting brown bears over bait would likely mask the effects of reduced bear densities on harvest success, thereby increasing potential for overharvest in the absence of adequately rigorous population monitoring.

The Refuge contains a significant portion of the Kenai Peninsula's core brown bear habitat, which in turn supports a significant portion of the Kenai Peninsula's brown bear population. Baiting is a highly effective method of hunting brown bears, as demonstrated by the fact that since it was first allowed under State regulations on the Kenai Peninsula in 2014, the number of brown bears taken over bait has comprised over 54 percent of the overall harvest (184 of 340). Its effectiveness is even more evident when considering that most of the harvest of brown bears over bait occurs within a short timeframe during the last two weeks of May, as compared to harvest not using bait which occurs over a much longer period (most brown bears are taken during May, September, or October within a September 1 to May 31 hunting season).

Population modeling by the Service (using the model Vortex 9.9) suggests that known human-caused mortality of brown bears from 2012 to 2014 reversed the previous increasing trajectory of the brown bear population and resulted in a decline of approximately 18 percent (a modeled decline from the 2010 population estimate of 582 bears to 478 bears) in the overall Kenai Peninsula brown bear population. We would expect that annual harvest mortality would again increase and possibly be maintained over a longer period if baiting were allowed on the Refuge given this method's effectiveness and that the Refuge contains substantially higher quality habitat and higher bear densities than the vast majority of areas outside of the Refuge currently open to baiting. Higher brown bear harvests over a longer time period could again drive population declines that would be inconsistent with our mandate to conserve healthy fish and wildlife populations, including brown bears, in their natural diversity.

Allowing baiting for brown bears on the Refuge would also negatively impact the wilderness character of the Kenai Wilderness. Both population-level impacts to the Refuge's brown bears and placement of artificial food sources used as bait, which affects behavior and distribution of wildlife species utilizing these attractants, would negatively impact the untrammeled and natural qualities of the Kenai Wilderness.

Finally, in accordance with the Refuge Administration Act, as amended, the Service has an obligation not to allow any uses of the Refuge that are inconsistent with public safety (16 U.S.C. 668dd(d)(3)(A)(i)). Therefore, ensuring public safety is integral to the purpose of any regulations regarding uses of the Refuge. The Service believes that baiting of brown bears has the potential to modify bear behavior and increase human-bear conflicts, and that allowance of this method would increase baiting activity on the Refuge; therefore, allowing this method on the Refuge has the potential to pose an increased risk to public safety, which we discuss further in our May 5, 2016, final rule (81 FR 27030).

As to the Federal permit requirement for trapping on the Refuge, information and scientific literature submitted during the public comment period supported maintaining this regulatory requirement to ensure compatibility with the purposes of the Refuge and the mission of the National Wildlife Refuge System (Trapping Compatibility Determination, U.S. Fish and Wildlife Service, Kenai National Wildlife Refuge, August 2007). The Federal permit remains necessary due to its importance in ensuring public safety, decreasing user conflicts on the Refuge, and minimizing adverse impacts on non-target wildlife. The stipulations of the Federal trapping permit include a number of refuge-specific requirements not covered under State general trapping regulations, which we consider necessary to ensure compatibility as they support conservation of species in their natural diversity on the Refuge by reducing incidental take of non-target species (*e.g.,* moose, caribou, black and brown bears, eagles, ravens, crows, magpies and other migratory birds, and lynx when the season is closed) and conserving furbearers population that occur at low densities on the Refuge (*e.g.,* red fox, marten, and beaver). Another main objective of the

stipulations is to reduce user conflicts and enhance public safety in areas of high recreational use. The framework for managing the Refuge trapping program was developed through extensive public planning processes dating back to the Refuge's first comprehensive conservation plan in 1986, and furbearer management plan in 1988. This framework has allowed us to maintain a successful trapping program on the Refuge for decades.

As to the proposed increased access for snowmobiles, all-terrain vehicles, and utility task vehicles on designated lakes on the Refuge when there is adequate snow and ice cover, the Service believes this would result in temporary disturbance of wildlife and habitat impacts. The increased presence and use of motorized vehicles on these lakes may also negatively impact other visitors and increase potential for accidental fuel discharges. For example, allowance of snowmobiles, all-terrain vehicles, and utility task vehicles on these lakes is likely to lead to recreational riding of these vehicles unassociated with ice fishing, thereby increasing potential for conflict with participants in this popular winter activity on Refuge lakes. It would also likely result in increased unauthorized use of these vehicles on adjacent upland and wetland habitats, with resultant impacts to soils, habitats, and wildlife.

In further considering changes to firearm discharge restrictions along the Russian and Kenai Rivers, the Service finds that limiting the firearms restriction to the months of May through October, as outlined in the June 11, 2020, proposed rule (85 FR 35628), is insufficient to address public safety issues associated with firearms discharge along these rivers. As previously explained, under the Refuge Administration Act, as amended, the Service has an obligation not to allow any uses on a refuge that are inconsistent with public safety (16 U.S.C. 6688dd(d)(3)(A)(i)). Additionally, Service regulations at 50 CFR 36.42(b) provide that in determining whether to close an area or restrict an activity, the Refuge Manager shall be guided by several factors, including public health and safety. Therefore, for the reasons outlined in the May 5, 2016, final rule, and having completed additional analyses under NEPA, we are maintaining the year-round restriction on firearms discharge along the Kenai and Russian Rivers to ensure public safety in these intensively used river corridors. Maintaining this firearm restriction also provides consistency with U.S. Forest Service regulations restricting use of weapons in the vicinity of developed recreational facilities (36 CFR 261.10(d)), which apply to an adjoining area of similar size in the Chugach National Forest from the Russian River's confluence with the Kenai River upstream to the Russian River Falls.

Lastly, the Service believes that the provisions of the proposed rule that would increase access for bicycles and game carts on designated roads, rights-of-way, and trails needs further planning, public involvement, and compliance with NEPA.

For the reasons provided above, we are withdrawing the proposed rule that published on June 11, 2020 (85 FR 35628), to amend the refuge-specific public use regulations for Kenai NWR.

References Cited

A complete list of references cited in this document is available on the internet at *https://www.regulations.gov* at Docket No. FWS–R7–NWRS–2017–0058 and upon request from the person listed above under **FOR FURTHER INFORMATION CONTACT**.

Authority

The authority for this action is the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–668ee), as amended by the National Wildlife Refuge System Improvement Act of 1997 (Pub. L. 105–57); the Alaska National Interest Lands Conservation Act of 1980 (Pub. L. 96–487); and the Wilderness Act of 1964 (16 U.S.C. 1131 *et seq.*).

Shannon Estenoz,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2023–04318 Filed 3–6–23; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 230224–0055]

RIN 0648–BL91

Fisheries of the Northeastern United States; The 2023–2025 Specifications for the Atlantic Mackerel, Squid, and Butterfish Fishery Management Plan

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

ACTION: Proposed rule, request for comments.

SUMMARY: NMFS proposes 2023–2025 specifications for the Mackerel, Squid, and Butterfish Fishery Management Plan as recommended by the Mid-Atlantic Fishery Management Council. This action proposes to set the 2023–2025 chub mackerel specifications, the 2023–2024 butterfish specifications, and the 2023 *Illex* squid specifications. This action also proposes reaffirming the 2023 longfin squid specifications.

DATES: Public comments must be received by March 22, 2023.

ADDRESSES: Copies of supporting documents used by the Mid-Atlantic Fishery Management Council, including the Environmental Assessment (EA), the Supplemental Information Report (SIR), the Regulatory Impact Review (RIR), and the Regulatory Flexibility Act (RFA) analysis are available from: Dr. Christopher M. Moore, Executive Director, Mid-Atlantic Fishery Management Council, 800 North State Street, Suite 201, Dover, DE 19901, telephone (302) 674–2331.

You may submit comments, identified by NOAA–NMFS–2023–0018, by the following method:

Electronic Submission: Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov* and enter NOAA–NMFS–2023–0018 in the Search box. Click the ''Comment'' icon, complete the required fields, and Enter or attach your comments.

Instructions: Comments sent by any other method 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 *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Shannah Jaburek, Fishery Policy Analyst, (978) 282–8456.

SUPPLEMENTARY INFORMATION:

Background

This rule proposes specifications, which are the combined suite of commercial and recreational catch levels established for one or more fishing years, for chub mackerel, *Illex* squid, and butterfish, and reaffirms previously announced specifications for longfin squid. Atlantic mackerel specifications for 2023 were set through

a separate action (88 FR 6665). Section 302(g)(1)(B) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) states that the Scientific and Statistical Committee (SSC) for each regional fishery management council shall provide its Council ongoing scientific advice for fishery management decisions, including recommendations for acceptable biological catch (ABC), preventing overfishing, ensuring maximum sustainable yield, and achieving rebuilding targets. The ABC is a level of catch that accounts for the scientific uncertainty in the estimate of the stock's defined overfishing limit (OFL).

The regulations implementing the fishery management plan (FMP) require the Mid-Atlantic Fishery Management Council's Mackerel, Squid, and Butterfish Monitoring Committee to develop specification recommendations for each species based upon the ABC advice of the Council's SSC. The FMP regulations also require the specification of annual catch limits (ACL) and accountability measure (AM) provisions for butterfish. Both squid species are exempt from the ACL/AM requirements because they have a life cycle of less than one year. In addition, the regulations require the specification of domestic annual harvest (DAH), the butterfish mortality cap in the longfin squid fishery, and initial optimum yield (IOY) for both squid species.

On May 10, 2022 (87 FR 27952), we published a final rule in the **Federal Register** implementing the previously approved 2022 specifications for the chub mackerel, butterfish, longfin squid, and *Illex* squid fisheries.

The Council's SSC met in May and July 2022 to reevaluate the chub mackerel, longfin squid, *Illex* squid, and butterfish 2023 specifications based upon the latest information. At those meetings, the SSC concluded that no adjustments to the *Illex* squid, longfin squid, and chub mackerel specifications were warranted. However, for butterfish, the SSC recommended to use a different biological reference point based on new information from the assessment. The stock was assessed with the recently developed model known as the Woods Hole Assessment Model.

Proposed 2023 Longfin Squid Specifications

This action maintains the 2022 longfin squid ABC of 23,400 mt for 2023. The background for this ABC is discussed in the proposed rule to implement the 2021–2022 squid and butterfish specifications (86 FR 38586; July 22, 2021) and is not repeated here. The IOY, DAH, and domestic annual processing (DAP) are calculated by deducting an estimated discard rate (2 percent) from the ABC. This results in a 2023 IOY, DAH, and DAP of 22,932 mt (Table 1). This action also maintains the existing allocation of longfin squid DAH among trimesters according to percentages specified in the FMP (Table 2). The Council will review these specifications during its annual specifications process following annual data updates each spring, and may change its recommendation for 2024 if new information becomes available.

TABLE 1—2023 LONGFIN SQUID

Specification	Metric tons
OFL	Unknown.
ABC	23,400.
IOY	22,932.
DAH/DAP	22,932.

TABLE 2—2021–2022 LONGFIN QUOTA TRIMESTER ALLOCATIONS

Trimester	Percent	Metric tons
I (Jan–Apr)	43	9,861
II (May–Aug)	17	3,898
III (Sep–Dec)	40	9,173

Proposed 2023–2024 Butterfish Specifications

This action proposes to set the 2023 butterfish specifications and projected 2024 specifications as outlined in Table 3. The SSC reviewed the research track assessment results in May 2022. A variety of ecosystem topics were considered for inclusion in the butterfish assessment. These included predictive models for spatial distribution patterns over time, the influence of environmental drivers, the potential magnitude of natural mortality by marine mammal, bird, and fish populations, and comparative analyses of trends in recruitment and condition factor for a broad range of fish species. The proposed 2023 and projected 2024 butterfish specifications uses a new biological reference point for fishing mortality that is higher than earlier values based on updated scientific information. These specifications propose to maintain the existing butterfish mortality cap in the longfin squid fishery of 3,884 mt and the existing allocation of the butterfish mortality cap among longfin squid trimesters (Table 4).

TABLE 3—PROPOSED 2023 AND PROJECTED 2024 BUTTERFISH SPECIFICATIONS IN METRIC TONS

Specification	2023	2024
OFL	17,631	16,096
ABC	17,267	15,764
ACT	16,404	14,976
Assumed discards	1,248	1,248
Total discards	5,132	5,132
Butterfish cap in longfin	3,884	3,884
DAH	11,271	9,844

TABLE 4—PROPOSED 2023 TRIMESTER ALLOCATION OF BUTTERFISH MORTALITY CAP ON THE LONGFIN SQUID FISHERY

Trimester	Percent	Metric tons
I (Jan–Apr)	43	1,670
II (May–Aug)	17	660
III (Sep-Dec)	40	1,554
Total	100	3,844

Proposed 2023 Illex Squid Specifications

Consistent with the Council's recommendation, NMFS proposes to maintain the 2023 *Illex* squid ABC of 40,000 mt. The Council recommended that the ABC be reduced by the status quo discard rate of 4.52 percent, which results in a 2023 IOY, DAH, and DAP of 38,192 mt (Table 5).

TABLE 5—PROPOSED 2023 *Illex* SQUID SPECIFICATIONS IN METRIC TONS

Specification	2023
OFL	Unknown.
ABC	40,000.
IOY	38,192.
DAH/DAP	38,192.

Reaffirmation of 2021–2022 Atlantic Chub Mackerel Specifications

Amendment 21 to the FMP previously implemented chub mackerel specifications for the 2020–2022 fishing years. The Council reevaluated these specifications at its June 2022 meeting and decided to make no adjustments for the 2023–2025 fishing years. This action proposes to set the previously implemented specifications for 2023 and projects the same for 2024–2025.

TABLE 7—PROPOSED 2023 AND PROJECTED 2024–2025 ATLANTIC CHUB MACKEREL SPECIFICATIONS IN METRIC TONS

Specification	2023–2025
ABC	2,300
Annual Catch Limit (ACL)	2,262
Annual Catch Target	2,171
Total Allowable Landings	2,041

Additional Measures Not Part of the 2023 Mackerel, Squid, and Butterfish Specifications

In addition to implementing the specifications discussed previously, this proposed rule would reinstate regulatory text outlining the eligibility requirements required to issue a Tier 1 longfin squid moratorium permits found at § 648.4(a)(5)(A)(*1*) and the requirement to close the directed *Illex* fishery once a certain percenatage of the DAH has been landed found at § 648.24(a)(2) that were inadvertently removed from the Code of Federal Regulations on January 1, 2023. These changes simply restore the regulatory text that was removed by mistake by the expiration of a previous action, and would be made under our administrative authority at section 305(d) of the Magnuson-Stevens Act.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with the Mackerel, Squid, and Butterfish FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

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

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration (SBA) that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The purpose, context, and statutory basis for this action is described above and not repeated here. Business entities affected by this action include vessels that are issued limited access chub mackerel, longfin squid, *Illex* squid, and butterfish permits. Although vessels issued open access incidental catch permits for these species also would be potentially affected by this action, because these vessels land only small amounts of chub mackerel, squid, and butterfish and this action would not revise the amount of squid and butterfish that these vessels can land, these entities would not be affected by this proposed rule.

Any entity with combined annual fishery landing receipts less than $11 million is considered a small entity based on standards published in the **Federal Register** (80 FR 81194, December 29, 2015). In 2021, 69 separate vessels held commercial limited access *Illex* permits. Approximately 55 entities owned those vessels, and based on current SBA size standards, 49 would be small business entities. In 2021, 33 vessels landed over 10,000 lb (4,536 kg) with total *Illex* landings valued at $29.7 million. From 2019–2021 *Illex* ex-vessel revenues varied from $25.3–$29.7 million, averaging $28.2 million. The previously approved Atlantic mackerel, *Illex* squid, and longfin squid commercial landing limits would not be changed by this proposed action. Fishing revenue and, therefore, economic impacts of yearly Mackerel, Squid, and Butterfish specifications depend upon species availability, which may change yearly. This action is not expected to have negative impacts on any participating entities. Mackerel and longfin quotas would be maintained at status quo. *Illex* squid specifications would be maintained at status quo, although the closure threshold would be lowered from 95 percent to 94 percent to avoid quota overages, which have occurred in recent years. Still, any landings that could occur up to the 94 percent closure threshold would be higher than the 2017–2019 quotas. In 2019, landings were only slightly above the landings at the 94 percent threshold, even with the 2019 overage. Avoiding quota overages also has the long term benefit of avoiding overfishing. Although butterfish quotas would be slightly reduced, the fishery has landed less than 75 percent of the DAH for the past several years, and therefore, the proposed quotas would still allow for a higher harvest level compared to what the fishery has recently landed.

In determining the significance of the economic impacts of the proposed action, we considered the following two criteria outlined in applicable NMFS guidance: Disproportionality and profitability. The proposed measures would not place a substantial number of small entities at a significant competitive disadvantage to large entities; all entities affected by this action would be equally affected. Accordingly, there are no disproportionate economic effects from this action between small and large entities. Proposed measures would not reduce fishing opportunities based on recent squid and butterfish landings, change any entity's access to these resources, or impose any costs to affected entities. Therefore, this action would not be expected to reduce revenues or profit for affected entities compared to recent levels. Based on the above justification, the proposed action is not expected to have a significant economic impact on a substantial number of small entities.

This proposed rule does not contain a change to a collection of information requirement for purposes of the Paperwork Reduction Act of 1995. The existing collection of information requirements would continue to apply under the following OMB Control Number: 0648–0229, Greater Atlantic Region Dealer Purchase Reports. Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Fishery closures and accountability measures.

Dated: February 27, 2023.

Samuel D. Rauch, III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is proposed to be amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

■ 1. The authority citation for part 648 continues to read as follows:

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

■ 2. In § 648.4, add paragraph (a)(5)(i)(A)(*1*) to read as follows:

§ 648.4 Vessel permits.

(a) * * *

(5) * * *

(i) * * *

(*A*) * * * (*1*) *Tier 1 longfin squid moratorium permit.* Beginning in February 2019, the Regional Administrator shall automatically issue a Tier 1 longfin squid moratorium permit to any vessel that is issued a longfin squid/butterfish moratorium permit or eligible to be issued such a permit held in confirmation of permit history (CPH) during calendar year 2018 that meets the eligibility criteria in this paragraph (a)(5)(i)(A)(*1*). To be eligible for a Tier 1 permit, a vessel must have been issued a valid longfin squid/butterfish moratorium permit and landed more than 10,000 lb (4,536 kg) of longfin squid in at least one calendar year between January 1, 1997, and December 31, 2013. Fishing history, including for a permit held in confirmation of permit history, can be used by a vessel to qualify for and be issued a tier 1 longfin squid moratorium permit, provided the Regional Administrator has determined that the fishing and permit history of such vessel has been lawfully retained by the applicant. Landings data used in this qualification must be verified by dealer reports submitted to NMFS. A vessel that was not automatically issued a Tier 1 longfin squid moratorium permit may apply for such a permit in accordance with paragraph (a)(5)(i)(B) of this section.

* * * * *

■ 3. In § 648.24, add paragraph (a)(2) to read as follows:

§ 648.24 Fishery closures and accountability measures.

(a) * * *

(2) *Illex.* NMFS shall close the directed *Illex* fishery in the EEZ when the Regional Administrator projects that 94 percent of the *Illex* DAH is harvested. The closure of the directed fishery shall be in effect for the remainder of that fishing period, with incidental catches allowed as specified at § 648.26.

* * * * *

[FR Doc. 2023–04298 Filed 3–6–23; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 88, No. 44
Tuesday, March 7, 2023

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

Submission for OMB Review; Comment Request

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested regarding; whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by April 6, 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 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.

Food and Nutrition Service

Title: Supplemental Nutrition Assistance Program Education and Obesity Prevention Grant (SNAP-Ed) National Program Evaluation and Reporting System (N–PEARS).

OMB Control Number: 0584–NEW.

Summary of Collection: This is a new information collection request. This information collection addresses existing reporting and recordkeeping requirements associated with newly developed State Plan and Annual Report systems under the Supplemental Nutrition Assistance Program Education and Obesity Prevention Grant Program (SNAP-Ed), a program established by Section 28 of the Food and Nutrition Act of 2008, as amended (7 U.S.C. 2036a) and administered by the U.S. Department of Agriculture's (USDA's) Food and Nutrition Service (FNS).

Need and Use of the Information: As required in the statute, to gain Federally allocated SNAP-Ed grants to conduct SNAP-Ed activities every year, such as nutrition education and obesity prevention services, States must submit a SNAP-Ed State Plan (FNS 925B) and a SNAP-Ed Annual Report (FNS 925A). The SNAP-Ed State Plan must be created based on SNAP-Ed Plan Guidance and then reviewed and approved by FNS Regional Offices before SNAP-Ed funding can be utilized.

The information contained in SNAP-Ed State Plans and Annual Reports is used by FNS to determine whether SNAP-Ed Program resources are being maximized, and whether State SNAP agencies have produced a persuasive and data-driven needs evaluation of nutrition, physical activity, and obesity prevention needs of the target population and their barriers to obtaining healthy foods and physical activity in the State SNAP-Ed Plan. Furthermore, the information is necessary to ensure integrity of SNAP-Ed funds, demonstrate program effectiveness, and track SNAP-Ed outcomes and impacts.

Description of Respondents: (1) 53 State Agencies that administer the SNAP-Ed Program in their State; (2) 112 State, Local, and Tribal Implementing Agencies (96 State Implementing Agencies, 7 Local Implementing Agencies, and 9 Tribal Implementing Agencies); (3) 53 Not-For-Profit Implementing Agencies; (4) 21 employees at State Agencies that administer the SNAP-Ed Program in their State; (5) 83 employees at State, Local, and Tribal Implementing Agencies (69 employees at State Implementing Agencies, 6 employees at Local Implementing Agencies, and 8 employees at Tribal Implementing Agencies); and (6) 42 employees at Not-For-Profit Implementing Agencies.

Number of Respondents: 364.

Frequency of Responses: Reporting: Annually.

Total Burden Hours: 393,209.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2023–04605 Filed 3–6–23; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. FSIS–2023–0003]

Notice of Request To Renew an Approved Information Collection: Procedures for the Notification of New Technology and Requests for Waivers

AGENCY: Food Safety and Inspection Service (FSIS), U.S. Department of Agriculture (USDA).

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 and the Office of Management and Budget (OMB) regulations, FSIS is announcing its intention to request renewal of the approved information collection regarding the procedures for notifying the Agency about new technology and requests for waivers. There are no changes to the existing information collection. The approval for this information collection will expire on June 30, 2023.

DATES: Submit comments on or before May 8, 2023.

ADDRESSES: FSIS invites interested persons to submit comments on this **Federal Register** notice. Comments may be submitted by one of the following methods:

- *Federal eRulemaking Portal:* This website provides commenters the ability to type short comments directly into the comment field on the web page or to

attach a file for lengthier comments. Go to *https://www.regulations.gov*. Follow the on-line instructions at that site for submitting comments.

- *Mail:* Send to Docket Clerk, U.S. Department of Agriculture, Food Safety and Inspection Service, 1400 Independence Avenue SW, Mailstop 3758, Washington, DC 20250–3700.
- *Hand- or Courier-Delivered Submittals:* Deliver to 1400 Independence Avenue SW, Jamie L. Whitten Building, Room 350–E, Washington, DC 20250–3700.

Instructions: All items submitted by mail or electronic mail must include the Agency name and docket number FSIS–2023–0003. Comments received in response to this docket will be made available for public inspection and posted without change, including any personal information, to *https://www.regulations.gov*.

Docket: For access to background documents or comments received, call (202) 205–0495 to schedule a time to visit the FSIS Docket Room at 1400 Independence Avenue SW, Washington, DC 20250–3700.

FOR FURTHER INFORMATION CONTACT: Gina Kouba, Office of Policy and Program Development, Food Safety and Inspection Service, USDA, 1400 Independence Avenue SW, Mailstop 3758, South Building, Washington, DC 20250–3700; (202) 205–0495.

SUPPLEMENTARY INFORMATION:

Title: Procedures for the Notification of New Technology and Requests for Waivers.

Expiration Date of Approval: June 30, 2023.

OMB Number: 0583–0127.

Type of Request: Renewal of an approved information collection.

Abstract: FSIS has been delegated the authority to exercise the functions of the Secretary (7 CFR 2.18 and 2.53), as specified in the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601, *et seq.*), the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451, *et seq.*), and the Egg Products Inspection Act (EPIA) (21 U.S.C. 1031, *et seq.*). These statutes mandate that FSIS protect the public by verifying that meat, poultry, and egg products are safe, wholesome, and properly labeled and packaged.

FSIS is announcing its intention to request renewal of the approved information collection regarding the procedures for notifying the Agency about new technology and requests for waivers. There are no changes to the existing information collection. The approval for this information collection will expire on June 30, 2023.

FSIS has procedures for official meat, poultry, and egg products establishments to request temporary waivers from regulatory requirements in the event of a public health emergency or to permit experimentation (see 9 CFR 303.1 (h), 381.3 (b), and 590.10). FSIS also has procedures for official establishments and companies that manufacture and sell technology to official establishments, to notify the Agency of any new technology intended for use in official establishments, so that the Agency has an opportunity to decide whether the new technology requires a pre-use review. (68 FR 6873). To follow the procedures, official establishments and firms that manufacture and sell technology to official establishments notify the Agency by submitting documents describing the operation and purpose of the new technology or waiver request. The documents should explain why the new technology or waiver request will not (1) adversely affect the safety of the product, (2) jeopardize the safety of Federal inspection personnel, or (3) interfere with inspection procedures. If use of the new technology will also require a waiver of any Agency regulation, the notice must identify the regulation and explain why a waiver would be appropriate (9 CFR 303.1(h), 381.3(b), and 590.10). If the new technology could affect FSIS regulations, product safety, inspection procedures, or the safety of inspection program personnel, the establishment or plant would need to submit a written protocol for an in-plant trial as part of a pre-use review. The submitter of a written protocol should provide data to the Agency throughout the duration of the in-plant trial.

FSIS has made the following estimates based upon an information collection assessment:

Estimate of Burden: FSIS estimates that it will take respondents an average of 8 hours to complete a notification of intent to use new technology if no in-plant trial is necessary. If an in-plant trial is necessary, FSIS estimates that it will take an average of 80 hours to develop a protocol and an average of 80 additional hours to collect data and keep records during the in-plant trial. FSIS estimates it will take respondents an average of 120 hours to collect data and conduct recordkeeping under a waiver.

Respondents: Official meat and poultry establishments and egg product plants; firms that manufacture or sell technology to official establishments and plants.

Estimated Number of Respondents: 75 respondents will submit notifications of intent to use new technology. 50 respondents will develop a protocol for and conduct an in-plant trial. 50 respondents will collect data and conduct recordkeeping for the duration of the in-plant trial. 35 respondents will collect data and conduct recordkeeping under the waiver.

Estimated Number of Annual Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 12,800 hours. All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record. Copies of this information collection assessment can be obtained from Gina Kouba, Office of Policy and Program Development, Food Safety and Inspection Service, USDA, 1400 Independence Avenue SW, Mailstop 3758, South Building, Washington, DC 20250–3700; (202) 205–0495.

Comments are invited on: (a)whether the proposed collection of information is necessary for the proper performance of FSIS' functions, including whether the information will have practical utility; (b) the accuracy of FSIS' estimate of the burden of the proposed collection of information, including the validity of the method 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, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques, or other forms of information technology. Comments may be sent to both FSIS, at the addresses provided above, and the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20253.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, FSIS will announce this **Federal Register** publication on-line through the FSIS web page located at: *https://www.fsis.usda.gov/federal-register*.

FSIS will also announce and provide a link to this **Federal Register** publication through the FSIS *Constituent Update,* which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to our constituents and stakeholders. The *Constituent Update* is available on the FSIS web page. Through the web page, FSIS can provide information to a much broader, more diverse audience.

In addition, FSIS offers an email subscription service which provides automatic and customized access to selected food safety news and information. This service is available at: *https://www.fsis.usda.gov/subscribe.* Options range from recalls to export information, regulations, directives, and notices. Customers can add or delete subscriptions themselves and have the option to password protect their accounts.

USDA Non-Discrimination Statement

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

Program information may be made available in languages other than English. Persons with disabilities who require alternative means of communication to obtain program information (*e.g.,* Braille, large print, audiotape, American Sign Language) should contact the responsible Mission Area, agency, or staff office; the USDA TARGET Center at (202) 720–2600 (voice and TTY); or the Federal Relay Service at (800) 877–8339.

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

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

(2) *Fax:* (833) 256–1665 or (202) 690–7442; or (3) Email: *program.intake@usda.gov.*

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Paul Kiecker,

Administrator.

[FR Doc. 2023–04597 Filed 3–6–23; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Forest Service

Central Idaho Resource Advisory Committee

AGENCY: Forest Service, Agriculture (USDA).

ACTION: Notice of meetings.

SUMMARY: The Central Idaho Resource Advisory Committee (RAC) will hold a public meeting according to the details shown below. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with Title II of the Act. General information and meeting details can be found at the following website: *https://www.fs.usda.gov/main/scnf/workingtogether/advisorycommittees.*

DATES: The meeting will be held on March 23, 2023, beginning at 9 a.m., Mountain Daylight Time.

Oral Comments: Individuals wishing to make an oral statement should request in writing by March 2, 2023, to be scheduled on the agenda.

Written Comments: Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before the meeting or by April 9, 2023. Written comments and requests for time for oral comments must be sent to Amy Baumer, RAC Coordinator, 1206 S Challis Street, Salmon, ID 83467 or by email to *amy.baumer@usda.gov*.

All RAC meetings are subject to cancellation. For status of the meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

ADDRESSES: This meeting is open to the public and will be held at the Challis Community Events Center, located at 411 Clinic Road, Challis, Idaho 83226. The public may also join virtually via telephone and/or video conference. Virtual meeting participation details can be found on the website listed under **SUMMARY** or by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**.

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION.** All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received upon request.

FOR FURTHER INFORMATION CONTACT: Amy Baumer, Central Idaho RAC Coordinator, by phone at 208–756–5100 or via email at *amy.baumer@usda.gov*.

Individuals who use telecommunication devices for the deaf and hard of hearing (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, 24 hours a day, every day of the year, including holidays.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to:

1. Hear from Title II project proponants and discuss Title II proposals, and

2. Make funding recommendations on Title II projects.

The meeting is open to the public. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request in writing by March 2, 2023, to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before the meeting or by April 9, 2023. Written comments and requests for time for oral comments must be sent to Amy Baumer, RAC Coordinator, 1206 S Challis Street, Salmon, ID 83467 or by email to *amy.baumer@usda.gov*. Persons with disabilities who require alternative means of communication for program information (*e.g.,* Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720–2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877–8339. Additionally, program information may be made available in languages other than English.

USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity,

in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Equal opportunity practices in accordance with USDA's policies will be followed in all appointments to the Committee. To ensure that the recommendations of the Committee have taken in account the needs of the diverse groups served by USDA, membership shall include to the extent possible, individuals with demonstrated ability to represent minorities, women, and persons with disabilities. USDA is an equal opportunity provider, employer, and lender.

Dated: February 28, 2023

Cikena Reid,

USDA Committee Management Officer.

[FR Doc. 2023–04599 Filed 3–6–23; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–15–2023]

Foreign-Trade Zone 122—Corpus Christi, Texas; Application for Expansion of Subzone 122X, Cheniere Energy, Inc., Portland, Texas

An application has been submitted to the Foreign-Trade Zones (FTZ) Board by the Port of Corpus Christi Authority, grantee of FTZ 122, requesting an expansion of Subzone 122X on behalf of Cheniere Energy, Inc., located in Portland, Texas. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the FTZ Board (15 CFR part 400). It was formally docketed on March 1, 2023.

Subzone 122X was approved on May 11, 2020 (Board Order 2098, 85 FR 29396–29397, May 15, 2020). Production activity was authorized on February 13, 2020 (B–66–2019, 85 FR 9734, February 20, 2020). The subzone currently consists of 1,636.109 acres located at 2822 La Quinta Road in Portland (Site 1).

The applicant is requesting authority to modify the subzone as follows: (1) expand Site 1 to include an additional 66.895 acres; and, (2) remove a parcel that was inadvertently included in the requested Site 1 boundaries approved in 2020. Modified Site 1 will consist of 1,703.004 acres total. No additional authorization for production activity has been requested at this time.

In accordance with the FTZ Board's regulations, Camille Evans of the FTZ Staff is designated examiner to review the application and make recommendations to the FTZ Board.

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary and sent to: *ftz@trade.gov.* The closing period for their receipt is April 17, 2023. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to May 1, 2023.

A copy of the application will be available for public inspection in the ''Online FTZ Information Section'' section of the FTZ Board's website, which is accessible via *www.trade.gov/ftz.*

For further information, contact Camille Evans at *Camille.Evans@trade.gov.*

Dated: March 1, 2023.

Elizabeth Whiteman,

Acting Executive Secretary.

[FR Doc. 2023–04566 Filed 3–6–23; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Regulations and Procedures Technical Advisory Committee; Notice of Open Meeting

The Regulations and Procedures Technical Advisory Committee (RPTAC) will meet March 21, 2023, 9:00 a.m., Eastern Standard Time, via hybrid. The Committee advises the Office of the Assistant Secretary for Export Administration on implementation of the Export Administration Regulations (EAR) and provides for continuing review to update the EAR as needed. The purpose of the meeting is to have Committee members and U.S. Government representatives mutually review updated technical data and policy-driving information that has been gathered.

Agenda

Public Session

1. Opening remarks by the Chairman
2. Opening remarks by the Bureau of Industry and Security
3. Presentations of Papers by the Public
4. Regulations Update
5. Automated Export System Update
6. Working Group Reports

The open session will be accessible via teleconference. To join the conference, submit inquiries to Ms. Yvette Springer at 202–482–2813, no later than March 14, 2023.

A limited number of seats will be available for the public session. Reservations are not accepted. To the extent that time permits, members of the public may present oral statements to the Committee. The public may submit written statements at any time before or after the meeting. However, to facilitate the distribution of public presentation materials to the Committee members, the Committee suggests that presenters forward the public presentation materials prior to the meeting to Ms. Springer via email.

For more information, contact Yvette Springer via email.

Yvette Springer,

Committee Liaison Officer.

[FR Doc. 2023–04619 Filed 3–6–23; 8:45 am]

BILLING CODE 3510–JT–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; Voluntary Self-Disclosure of Antiboycott Violations

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

ACTION: Notice of information collection, request for comment.

SUMMARY: The Department of Commerce, in accordance with the Paperwork Reduction Act of 1995 (PRA), invites 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. The purpose of this notice is to allow for 60 days of public comment preceding submission of the collection to OMB.

DATES: To ensure consideration, comments regarding this proposed information collection must be received on or before May 8, 2023.

ADDRESSES: Interested persons are invited to submit comments by email to Mark Crace, IC Liaison, Bureau of Industry and Security, at *mark.crace@bis.doc.gov* or to *PRAcomments@doc.gov*). Please reference OMB Control Number 0694–0132 in the subject line of your comments. Do not submit Confidential Business Information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or specific questions related to collection activities should be directed to Mark Crace, IC Liaison, Bureau of Industry and Security, phone 202–482–8093 or by email at *mark.crace@bis.doc.gov*.

SUPPLEMENTARY INFORMATION:

I. Abstract

Voluntary self-disclosures allow BIS to conduct investigations of the disclosed incidents faster than would be the case if BIS had to detect the violations without such disclosures. As a result, BIS is able to devote more of its resources to detecting non-disclosed violations. The information obtained through this collection may also provide leads to uncover other violations. In some cases, the information might be shared with other law enforcement agencies investigating suspected violations of the ECRA and the EAR or, in appropriate instances, agencies investigating violations of other statutes or with foreign governments.

II. Method of Collection

Paper.

III. Data

OMB Control Number: 0694–0132.

Form Number(s): None.

Type of Review: Regular submission, extension of a current information collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 15.

Estimated Time per Response: 10 to 600 hours.

Estimated Total Annual Burden Hours: 4,220.

Estimated Total Annual Cost to Public: 0.

Respondent's Obligation: Voluntary.

Legal Authority: Sections 4812(b)(7) and 4814(b)(1)(B) of the Export Control Reform Act (ECRA).

IV. Request for Comments

We are soliciting public comments to permit the Department/Bureau to: (a) Evaluate whether the proposed information collection is necessary for the proper functions of the Department, including whether the information will have practical utility; (b) Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used; (c) Evaluate ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2023–04603 Filed 3–6–23; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–810]

Stainless Steel Bar From India: Preliminary Results of Antidumping Duty Administrative Review; 2021–2022

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) is conducting an administrative review of the antidumping duty order on stainless steel bar from India. The period of review (POR) is February 1, 2021, through January 31, 2022. This review covers four producers/exporters of the subject merchandise. We preliminarily determine that subject merchandise has not been sold at less than at normal value during this POR. We invite interested parties to comment on these preliminary results.

DATES: Applicable March 7, 2023.

FOR FURTHER INFORMATION CONTACT: Mary Kolberg, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–1785.

SUPPLEMENTARY INFORMATION:

Background

On February 21, 1995, Commerce published the antidumping duty order on stainless steel bar from India.[1] On April 12, 2022, based on timely requests for administrative reviews, Commerce initiated an administrative review of the *Order,*[2] and subsequently selected Laxcon Steels Limited (Laxcon), as the sole mandatory respondent. On October 17, 2022, we extended the preliminary results until February 28, 2023.[3]

Scope of the Order

The product covered by this *Order* is stainless steel bar from India. For a full description of the scope, *see* the Preliminary Decision Memorandum.[4]

Methodology

Commerce is conducting this review in accordance with section 751(a)(1)(B) of the Tariff Act of 1930, as amended (the Act). Export price and constructed export price are calculated in accordance with section 772 of the Act. NV is calculated in accordance with section 773 of the Act.

For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum. A list of the topics discussed in the Preliminary Decision Memorandum is included as the appendix to this notice. The Preliminary Decision Memorandum is a public document and is made available to the public via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Preliminary Results of Review

We preliminarily determine that the following weighted-average dumping margins exist for the period February 1, 2021, through January 31, 2022:

[1] *See Antidumping Duty Orders: Stainless Steel Bar from Brazil, India and Japan,* 60 FR 9661 (February 21, 1995) (*Order*).

[2] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 87 FR 21619 (April 12, 2022).

[3] *See* Memorandum, ''Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review; 2021–2022,'' dated October 17, 2022.

[4] *See* Memorandum, ''Stainless Steel Bar from India: Decision Memorandum for Preliminary Results of Antidumping Duty Administrative Review; 2021–2022,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum), at 2–3.

Producer/exporter	Weighted-average dumping margin (percent)
Laxcon Steels Limited, and its affiliates, Ocean Steels Private Limited, Metlax International Private Limited, Parvati Private Limited, and Mega Steels Private Limited[5]	0.00
Non-Selected Companies	
Venus Wire Industries Pvt. Ltd., and its affiliates, Precision Metals, Hindustan Inox Ltd., and Sieves Manufacturers (India) Pvt. Ltd.[6]	0.00
Bhansali Bright Bars Pvt. Ltd	0.00
Bhansali Inc	0.00

Rate for Companies Not Individually Examined

The Act and Commerce's regulations do not address the establishment of a weighted-average dumping margin to be applied to companies not selected for individual examination when Commerce limits its examination in an administrative review pursuant to section 777A(c)(2) of the Act. Generally, Commerce looks to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in a less-than-fair-value (LTFV) investigation, for guidance when calculating the weighted-average dumping margin for companies which were not selected for individual examination in an administrative review. Under section 735(c)(5)(A) of the Act, the all-others rate is normally an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually examined, excluding any margins that are zero, *de minimis* (*i.e.,* less than 0.5 percent), or determined entirely on the basis of facts available. However, where the dumping margins for individually examined respondents are all zero, *de minimis,* or based entirely on facts available, section 735(c)(5)(B) of the Act provides that Commerce may use ''any reasonable method to establish the estimated all-others rate for exporters and producers not individually investigated, including averaging the estimated weighted average dumping margins determined for the exporters and producers individually investigated.'' In this review, we have calculated a weighted-average dumping margin for Laxcon, the sole mandatory respondent, that is zero. Consistent with section 735(c)(5)(B) of the Act, we are assigning to the three companies not selected for individual examination, Venus Group, Bhansali Bright Bars Pvt. Ltd., and Bhansali Inc., the zero percent rate calculated for the mandatory respondent, Laxcon.

Disclosure

We intend to disclose the calculations performed for these preliminary results to the interested parties within five days after public announcement of the preliminary results in accordance with 19 CFR 351.224(b).

Public Comment

Pursuant to 19 CFR 351.309(c), interested parties may submit case briefs to the Assistant Secretary for Enforcement and Compliance not later than 30 days after the date of publication of this notice, unless Commerce alters the time limit. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than seven days after the date for filing case briefs.[7] Parties who submit case briefs or rebuttal briefs in this administrative review are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.[8] Note that Commerce has temporarily modified certain of its requirements for service of documents containing business proprietary information, until further notice.[9]

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically via ACCESS. An electronically filed document must be received successfully in its entirety via ACCESS by 5:00 p.m. Eastern Time within 30 days after the date of publication of this notice.[10] Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case briefs. Commerce intends to issue the final results of this administrative review, including the results of its analysis of the issues raised in any written briefs, not later than 120 days after the date of publication of these preliminary results in the **Federal Register**, pursuant to section 751(a)(3)(A) of the Act, unless extended.

Assessment Rate

Upon issuance of the final results, Commerce will determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries covered by this review.[11] If a respondent's weighted-average dumping margin is above *de minimis* in the final results of this review, we will calculate an importer-specific assessment rate based on the ratio of the total amount of dumping calculated for each importer's examined sales and the total entered value of the sales in accordance with 19 CFR 351.212(b)(1).[12] If a respondent's weighted-average dumping margin or an importer-specific assessment rate is zero or *de minimis* in the final results of review, we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties in accordance with the *Final Modification for Reviews.*[13]

For entries of subject merchandise during the POR produced by Laxcon for which they did not know their merchandise was destined for the United States, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the

[5] Collectively, these companies are known as Laxcon.

[6] Collectively, these companies are known as Venus Group.

[7] *See* 19 CFR 351.309(d); *see also* 19 CFR 351.303 (for general filing requirements).

[8] *See* 19 CFR 351.309(c)(2) and (d)(2).

[9] *See Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19; Extension of Effective Period,* 85 FR 41363 (July 10, 2020).

[10] *See* 19 CFR 351.310(c).

[11] *See* 19 CFR 351.212(b).

[12] In these preliminary results, Commerce applied the assessment rate calculation method adopted in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification,* 77 FR 8101 (February 14, 2012) (*Final Modification for Reviews*).

[13] *Id.,* 77 FR at 8103; *see also* 19 CFR 351.106(c)(2).

intermediate company(ies) involved in the transaction.

The final results of this administrative review shall be the basis for the assessment of antidumping duties on entries of merchandise under review and for future deposits of estimated duties, where applicable.

We intend to issue assessment instructions to CBP no earlier than 35 days after date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

Cash Deposit Requirements

The following cash deposit requirements for estimated antidumping duties will be effective upon publication of the notice of final results of this review for all shipments of stainless steel bar from India entered, or withdrawn from warehouse, for consumption on or after the date of publication as provided by section 751(a)(2)(C) of the Act: (1) the cash deposit rate for the company listed above will be established in the final results of this review, except if the rate is less than 0.50 percent and, therefore, *de minimis* within the meaning of 19 CFR 351.106(c)(1), in which case the cash deposit rate will be zero; (2) for merchandise exported by companies not covered in this review but covered in a prior segment of this proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the LTFV investigation but the producer is, the cash deposit rate will be the rate established for the most recently completed segment for the producer of the merchandise; (4) the cash deposit rate for all other producers or exporters will continue to be the 12.45 percent, the all-others rate established in the LTFV investigation.[14] These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this period of review. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification to Interested Parties

Commerce is issuing and publishing these results in accordance with sections 751(a)(1) and 777(i) of the Act, and 19 CFR 351.221(b)(4).

Dated: February 28, 2023.

Abdelali Elouaradia,

Deputy Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Scope of the *Order*
IV. Affiliation and Collapsing
V. Discussion of the Methodology
VI. Currency Conversion
VII. Recommendation

[FR Doc. 2023–04574 Filed 3–6–23; 8:45 am]

BILLING CODE 3510–DS–P

[14] *See Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Bar from India,* 59 FR 66915, 66921 (December 28, 1994).

DEPARTMENT OF COMMERCE

International Trade Administration

[C–533–909]

Barium Chloride From India: Countervailing Duty Order

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: Based on affirmative final determinations by the Department of Commerce (Commerce) and the International Trade Commission (ITC), Commerce is issuing a countervailing duty order on barium chloride from India.

DATES: Applicable March 7, 2023.

FOR FURTHER INFORMATION CONTACT: Tyler Weinhold or Harrison Tanchuck, AD/CVD Operations, Office VI, Enforcement and Compliance, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–1121 and (202) 482–4798, respectively.

SUPPLEMENTARY INFORMATION:

Background

In accordance with section 705(d) of the Tariff Act of 1930, as amended (the Act), on January 6, 2023, Commerce published its affirmative final determination in the countervailing duty investigation of barium chloride from India.[1] On February 17, 2023, the ITC notified Commerce of its final determination, pursuant to sections 705(b)(1)(A)(i) and 705(d) of the Act, that an industry in the United States is materially injured by reason of subsidized imports of barium chloride from India.[2]

Scope of the Order

The scope of the order is barium chloride from India. For a complete description of the scope of this order, *see* the appendix to this notice.

Countervailing Duty Order

As noted above, on February 17, 2023, in accordance with sections 705(b)(1)(A)(i) and 705(d) of the Act, the ITC notified Commerce of its final determination in this investigation, in which it found that an industry in the United States is materially injured by reason of imports of barium chloride from India. Therefore, in accordance with sections 705(c)(2) and 706 of the Act, Commerce is issuing this countervailing duty order. Because the ITC determined that imports of barium chloride from India are materially injuring a U.S. industry, unliquidated entries of such merchandise from India, entered or withdrawn from warehouse for consumption, are subject to the assessment of countervailing duties.

In accordance with section 706(a) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to assess, upon further instruction by Commerce, countervailing duties for all relevant entries of barium chloride from India. With the exception of entries occurring after the provisional measures period and before the publication of the ITC's final affirmative injury determination, as further described below, countervailing duties will be assessed on unliquidated entries of barium chloride from India entered, or withdrawn from warehouse, for consumption on or after June 17, 2022, the date of publication of the *Preliminary Determination*.[3]

Suspension of Liquidation and Cash Deposits

In accordance with section 706 of the Act, Commerce will direct CBP to

[1] *See Barium Chloride From India: Final Affirmative Countervailing Duty Determination,* 88 FR 1044 (January 6, 2021) (*Final Determination*).

[2] *See* ITC's Letter, ''Investigation No. 701–TA–678 (Final),'' dated February 17, 2023 (ITC Notification Letter); *see also Barium Chloride from India,* 88 FR 11476 (February 23, 2023).

[3] *See Barium Chloride from India: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination With Final Antidumping Duty Determination,* 87 FR 36460 (June 17, 2022) (*Preliminary Determination*).

reinstitute the suspension of liquidation of barium chloride from India, effective on the date of publication of the ITC's notice of final determination in the **Federal Register**. These instructions will remain in effect until further notice. Commerce also intends, pursuant to section 706(a)(1) of the Act, to instruct CBP to assess countervailing duties for each entry of the subject merchandise in an amount based on the net countervailable subsidy rates below. On or after the publication of the ITC's final injury determination in the **Federal Register**, CBP must require, at the same time as importers would normally deposit estimated import duties on this merchandise, a cash deposit equal to the rates listed in the table below. The all-others rate applies to all producers or exporters not specifically listed, as appropriate.

Company	Subsidy rate (percent)
Chaitanya Chemicals [4]	23.57
All-Others	23.57

Provisional Measures

Section 703(d) of the Act states that suspension of liquidation pursuant to an affirmative preliminary determination may not remain in effect for more than four months. In the underlying investigation, Commerce published the *Preliminary Determination,* which was affirmative, on June 17, 2022. Therefore, entries of barium chloride from India made on or after October 15, 2022, and prior to the date of publication of the ITC's final determination in the **Federal Register**, are not subject to the assessment of countervailing duties due to Commerce's discontinuation of the suspension of liquidation.

In accordance with section 703(d) of the Act, we instructed CBP to terminate the suspension of liquidation and to liquidate, without regard to countervailing duties, unliquidated entries of barium chloride from India, entered, or withdrawn from warehouse, for consumption, on or after October 15, 2022, the date on which the provisional measures period expired, until and through the day preceding the date of publication of the ITC's final injury determination in the **Federal Register**. Suspension of liquidation and the collection of cash deposits will resume on the date of publication of the ITC's final determination in the **Federal Register**.

Establishment of the Annual Inquiry Service Lists

On September 30, 2021, Commerce published the final rule entitled: *Regulations to Improve Administration and Enforcement of Antidumping and Countervailing Duty Laws* in the **Federal Register**.[5] On September 27, 2021, Commerce also published the notice entitled: *Scope Ruling Application; Annual Inquiry Service List; and Informational Sessions* in the **Federal Register**.[6] The *Final Rule and Procedural Guidance* provide that Commerce will maintain an annual inquiry service list for each order or suspended investigation, and any interested party submitting a scope ruling application or request for circumvention inquiry shall serve a copy of the application or request on the persons on the annual inquiry service list for that order, as well as any companion order covering the same merchandise from the same country of origin.[7]

In accordance with the *Procedural Guidance,* for orders published in the **Federal Register** after November 4, 2021, Commerce will create an annual inquiry service list segment in Commerce's online e-filing and document management system, Antidumping and Countervailing Duty Electronic Service System (ACCESS), available at *https://access.trade.gov,* within five business days of publication of the notice of the order. Each annual inquiry service list will be saved in ACCESS, under each case number, and under a specific segment type called ''AISL-Annual Inquiry Service List.'' [8]

Interested parties who wish to be added to the annual inquiry service list for an order must submit an entry of appearance to the annual inquiry service list segment for the order in ACCESS within 30 days after the date of publication of the order. For ease of administration, Commerce requests that law firms with more than one attorney representing interested parties in an order designate a lead attorney to be included on the annual inquiry service list. Commerce will finalize the annual inquiry service list within five business days thereafter. As mentioned in the *Procedural Guidance,* the new annual inquiry service list will be in place until the following year, when the opportunity notice for the anniversary month of the order is published in the **Federal Register**.

Commerce may update an annual inquiry service list at any time as needed based on interested parties' amendments to their entries of appearance to remove or otherwise modify their list of members and representatives, or to update contact information. Any changes or announcements pertaining to these procedures will be posted to the ACCESS website at *https://access.trade.gov.*

Special Instructions for Petitioners and Foreign Governments

In the *Final Rule,* Commerce stated that, ''after an initial request and placement on the annual inquiry service list, both petitioners and foreign governments will automatically be placed on the annual inquiry service list in the years that follow.'' [9] Accordingly, as stated above, the petitioner and the Government of India (GOI) should submit their initial entry of appearance after publication of this notice in order to appear in the first annual inquiry service list. Pursuant to 19 CFR 351.225(n)(3), the petitioner and the GOI will not need to resubmit their entries of appearance each year to continue to be included on the annual inquiry service list. However, the petitioner and the GOI are responsible for making amendments to their entries of appearance during the annual update to the annual inquiry service list in accordance with the procedures described above.

Notifications to Interested Parties

This notice constitutes the countervailing duty order with respect to barium chloride from India, pursuant to section 706(a) of the Act. Interested parties can find a list of countervailing duty orders currently in effect at *http://enforcement.trade.gov/stats/iastats1.html.* This order is published in accordance with section 706(a) of the Act and 19 CFR 351.211(b).

[4] As discussed in the *Final Determination* and accompanying Issues and Decision Memorandum, Commerce has found the following company to be cross-owned with Chaitanya Chemicals: Chaitanya Barium (India) Private Limited.

[5] *See Regulations to Improve Administration and Enforcement of Antidumping and Countervailing Duty Laws,* 86 FR 52300 (September 20, 2021) (*Final Rule*).

[6] *See Scope Ruling Application; Annual Inquiry Service List; and Informational Sessions,* 86 FR 53205 (September 27, 2021) (*Procedural Guidance*).

[7] *Id.*

[8] This segment will be combined with the ACCESS Segment Specific Information (SSI) field, which will display the month in which the notice of the order or suspended investigation was published in the **Federal Register**, also known as the anniversary month. For example, for an order under case number A–000–000 that published in the **Federal Register** in January, the relevant segment and SSI combination will appear in ACCESS as ''AISL-January Anniversary.'' Note that there will be only one annual inquiry service list segment per case number, and the anniversary month will be pre-populated in ACCESS.

[9] *See Final Rule,* 86 FR at 52335.

Dated: February 28, 2023.

Abdelali Elouaradia,

Deputy Assistant Secretary for Enforcement and Compliance.

Appendix

Scope of the Order

The merchandise covered by this order is barium chloride, a chemical compound having the formulas $BaCl_2$ or $BaCl_2–2H_2O$, currently classifiable under subheading 2827.39.4500 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of this order is dispositive.

[FR Doc. 2023–04604 Filed 3–6–23; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–118]

Wood Mouldings and Millwork Products From the People's Republic of China: Preliminary Results and Partial Rescission of Countervailing Duty Administrative Review; 2020–2021

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that countervailable subsidies are being provided to producers and exporters of wood moulding and millwork products (millwork products) from the People's Republic of China (China) during the period of review (POR), June 12, 2020, through December 31, 2021. In addition, Commerce is rescinding this review with respect to 38 companies. Interested parties are invited to comment on these preliminary results of review.

DATES: Applicable March 7, 2023.

FOR FURTHER INFORMATION CONTACT: Janae Martin or Faris Montgomery, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–0238 or (202) 482–1537, respectively.

SUPPLEMENTARY INFORMATION:

Background

On February 16, 2021, Commerce published a countervailing duty (CVD) order on millwork products from China.[1] The Coalition of American Millwork Producers (the petitioner) and other interested parties requested that Commerce conduct an administrative review of the *Order.* On February 4, 2022, Commerce published in the **Federal Register** a notice of initiation of an administrative review of the *Order.*[2] We initiated an administrative review of 70 producers/exporters of millwork products from China for the POR. On June 21, 2022, Commerce selected Fujian Jinquan Trade Co., Ltd. (Jinquan) and Fujian Yinfeng Imp & Exp Trading Co., Ltd. (Yinfeng) as the mandatory respondents in this administrative review.[3]

On October 5, 2022, Commerce extended the deadline for the preliminary results of this review to no later than February 28, 2023.[4]

For a complete description of the events that followed the initiation of this review, *see* the Preliminary Decision Memorandum.[5] A list of topics discussed in the Preliminary Decision Memorandum is included at Appendix I. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Scope of the Order

The product covered by the *Order* is millwork products from China. For a complete description of the scope of the *Order, see* the Preliminary Decision Memorandum.

Rescission of Administrative Review, in Part

Pursuant to 19 CFR 351.213(d)(1), Commerce will rescind an administrative review, in whole or in part, if a party who requested the review withdraws the request within 90 days of the date of publication of notice of initiation of the requested review. On June 30, 2022, Gaomi Hongtai Home Furniture Co., Ltd. timely withdrew its request for review.[6] On July 11, 2022, Sanming Lingtong Trading Co., Ltd. and Sanming Lintong Trading Co., Ltd. timely withdrew their requests for review.[7] On July 11, 2022, the petitioner timely withdrew its requests for review of 57 companies.[8] For the 34 companies for which all requests for review were timely withdrawn, we are rescinding this review, in part with respect to these companies pursuant to 19 CFR 351.213(d)(1).[9]

On June 29, 2022, Commerce notified interested parties that we intended to rescind this administrative review with respect to certain companies, in the absence of suspended entries during the POR.[10] Five companies listed in our Intent to Rescind Memorandum, Aventra Inc., China Cornici Co., Ltd., Omni One Co., Limited, Raoping HongRong Handicrafts Co., Ltd. (d.b.a. Chen Chui Global Corp), and Shenzhen Xinjintai Industrial Co., Ltd., submitted comments claiming that they had entries of subject merchandise during the POR.[11] As we require more time to fully examine the companies' claims and request additional information if necessary, we are not rescinding the review of these five companies at this time, and will make a determination in the final results. With respect to the remaining four companies noted in our Intent to Rescind Memorandum and for which all review requests were not

[1] *See Wood Mouldings and Millwork Products from the People's Republic of China: Countervailing Duty Order,* 86 FR 9484 (February 16, 2021) (*Order*).

[2] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 87 FR 21619 (April 12, 2022) (*Initiation Notice*).

[3] *See* Memorandum, ''Respondent Selection,'' dated June 21, 2022.

[4] *See* Memorandum, ''Extension of Deadline for Preliminary Results of Countervailing Duty Administrative Review; 2020–2021,'' dated October 5, 2022.

[5] *See* Memorandum, ''Decision Memorandum for the Preliminary Results of the Countervailing Duty Administrative Review of Wood Mouldings and Millwork Products from the People's Republic of China; 2020–2021,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[6] *See* Gaomi Hongtai Home Furniture Co., Ltd.'s Letter, ''Withdrawal of Request for Administrative Review,'' dated June 30, 2022.

[7] *See* Sanming Lingtong Trading Co., Ltd./Sanming Lintong Trading Co., Ltd.'s Letter, ''Withdrawal of Request for Administrative Review and Request for Extension of Time to File Request'' dated July 11, 2022.

[8] *See* the Petitioner's Letter, ''Withdrawal of Request for Administrative Review,'' dated July 11, 2022.

[9] *See* Appendix II for a list of companies for which we are rescinding the review due to the timely withdrawal of the request for review.

[10] *See* Memorandum, ''Notice of Intent to Rescind Review, In Part,'' dated June 29, 2022 (Intent to Rescind Memorandum).

[11] *See* Aventra Inc.'s Letter, ''Comments on Notice of Intent to Rescind Review, In Part,'' dated July 13, 2022; *see also* China Cornici Co., Ltd.'s Letter, ''Comments on Notice of Intent to Rescind Review, In Part,'' dated July 13, 2022; Omni One Co., Limited's Letter, ''Comments on Notice of Intent to Rescind Review, In Part,'' July 13, 2022; Raoping HongRong Handicrafts Co., Ltd.'s Letter, ''Comments on Notice of Intent to Rescind Review, In Part,'' dated July 13, 2022; Shenzhen Xinjintai Industrial Co., Ltd.'s Letter, ''Comments on Notice of Intent to Rescind Review, In Part,'' dated July 13, 2022.

timely withdrawn,[12] we find that there were no reviewable entries of subject merchandise during the POR. As a result, we are rescinding this review, pursuant to 19 CFR 351.213(d)(3), with respect to these companies.

For further information regarding this determination, *see* ''Final Rescission of Administrative Review, In Part'' section in the Preliminary Decision Memorandum.

Methodology

Commerce is conducting this review in accordance with section 751(a)(1)(A) of the Tariff Act of 1930, as amended (the Act). For each of the subsidy programs found countervailable, we preliminarily determine that there is a subsidy, *i.e.,* a financial contribution by an ''authority'' that confers a benefit to the recipient, and that the subsidy is specific.[13] For a full description of the methodology underlying our preliminary conclusions, including our reliance, in part, on adverse facts available pursuant to sections 776(a) and (b) of the Act, *see* the Preliminary Decision Memorandum.

Preliminary Rate for Non-Selected Companies Under Review

As discussed above, Commerce initiated this administrative review with respect to 70 producers/exporters. We are rescinding the review for 34 companies for which the requests for administrative review were timely withdrawn and for four companies that had no suspended entries during the POR. Commerce selected two mandatory respondents, Jinquan and Yinfeng, for individual examination. For the remaining 28 non-selected companies subject to this review, because the rates calculated for mandatory respondents Jinquan and Yinfeng were above *de minimis* and not based entirely on facts available, we applied a preliminary subsidy rate based on a weighted average of the rates calculated for the two mandatory respondents using the publicly ranged sales data they submitted on the record. This methodology is consistent with our practice for establishing an all-others subsidy rate pursuant to section 705(c)(5)(A) of the Act. For further information on the calculation of the non-selected respondent rate, refer to the section in the Preliminary Decision Memorandum entitled ''Non-Selected Companies Under Review.'' For a list of the non-selected companies, *see* Appendix IV to this notice.

Preliminary Results of the Review

In accordance with 19 CFR 351.221(b)(4)(i), we calculated a countervailable subsidy rate for each of the mandatory respondents, Jinquan and Yinfeng, and their cross-owned affiliates, where applicable.

We preliminarily find the countervailable subsidy rates for the mandatory and non-selected respondents under review to be as follows:

Producer/exporter	Subsidy rate (percent) 2020	Subsidy rate (percent) 2021
Fujian Jinquan Trade Co., Ltd[14]	13.21	8.63
Fujian Yinfeng Imp & Exp Trading Co., Ltd[15]	5.01	04.38
Non-Selected Companies Under Review[16]	07.10	05.47

Disclosure

We intend to disclose to interested parties the calculations performed for these preliminary results in accordance with 19 CFR 351.224(b).

Verification

Commerce received a timely request from the petitioner to verify the information submitted in this administrative review.[17] As provided in section 782(i)(3) of the Act, Commerce intends to verify the information relied upon for its final results of this review.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance. Interested parties will be notified of the timeline for the submission of case briefs at a later date.[18] Rebuttal briefs, limited to issues raised in the case briefs, may be filed no later than seven days after the date for filing case briefs.[19] Pursuant to 19 CFR 351.309(d)(2), rebuttal briefs must be limited to issues raised in the case briefs. Parties who submit arguments are requested to submit with the argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.[20]

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, using Enforcement and Compliance's ACCESS system within 30 days of publication of this notice.[21] Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; (3) whether any participant is a foreign national; and (4) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case and rebuttal briefs. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined. Parties should confirm the date and time of the hearing two days before the scheduled date.

Parties are reminded that all briefs and hearing requests must be filed electronically using ACCESS[22] and must be served on interested parties.[23] Electronically filed documents must be received successfully in their entirety by

[12] *See* Appendix III for a list of these four companies.

[13] *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

[14] As discussed in the Preliminary Decision Memorandum, Commerce preliminarily finds Fujian Province Youxi County Baiyuan Wood Machining Co., Ltd. to be cross-owned with Jinquan. Fujian Province Youxi County Baiyuan Wood Machining Co., Ltd. was listed separately in the *Initiation Notice.*

[15] As discussed in the Preliminary Decision Memorandum, Commerce preliminarily finds the following companies to be cross-owned with Yinfeng: Fujian Province Youxi City Mangrove Wood Machining Co., Ltd.; and Fujian Province Youxi City Mangrove Wood Machining Co., Ltd. Youxi Xicheng Branch. Fujian Province Youxi City Mangrove Wood Machining Co., Ltd. was listed separately in the *Initiation Notice.*

[16] *See* Appendix IV.

[17] *See* Petitioner's Letter, ''Request for Verification,'' dated July 21, 2022.

[18] *See* 19 CFR 351.309(c)(1)(ii); *see also* 19 CFR 351.303 (for general filing requirements).

[19] *See* 19 CFR 351.309(d)(1); *see also Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19,* 85 FR 17006, 17007 (March 26, 2020) (''To provide adequate time for release of case briefs via ACCESS, E&C intends to schedule the due date for all rebuttal briefs to be 7 days after case briefs are filed (while these modifications remain in effect.'')).

[20] *See* 19 CFR 351.309(c)(2) and 351.309(d)(2).

[21] *See* 19 CFR 351.310(c).

[22] *See* 19 CFR 351.303.

[23] *See* 19 CFR 351.303(f).

5:00 p.m. Eastern Time on the established deadline. Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.[24]

Final Results

Unless the deadline is extended pursuant to section 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(2), Commerce intends to issue the final results of this administrative review, including the results of its analysis of the issues raised by the parties in any written briefs, no later than 120 days after the date of publication of these preliminary results.

Assessment Rates

In accordance with 19 CFR 351.221(b)(4)(i), we preliminarily assigned subsidy rates in the amounts for the producer/exporters shown above. Upon completion of the administrative review, consistent with section 751(a)(1) of the Act and 19 CFR 351.212(b)(2), Commerce shall determine, and CBP shall assess, countervailing duties on all appropriate entries covered by this review, for the above-listed companies at the applicable *ad valorem* assessment rates listed for the corresponding time period (*i.e.,* June 12, 2020, to December 31, 2020, and January 1, 2021, to December 31, 2021). For the companies for which this review is rescinded, Commerce will instruct CBP to assess countervailing duties on all appropriate entries at a rate equal to the cash deposit of estimated countervailing duties required at the time of entry, or withdrawal from warehouse, for consumption, during the period June 12, 2020, through December 31, 2021, in accordance with 19 CFR 351.212(c)(l)(i). Commerce intends to issue assessment instructions to CBP for these companies no earlier than 35 days after the publication of the preliminary results of this review in the **Federal Register**. For the remaining companies under review, Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

[24] *See Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19; Extension of Effective Period,* 85 FR 41363 (July 10, 2020).

Cash Deposit Requirements

In accordance with section 751(a)(1) of the Act, Commerce intends, upon publication of the final results, to instruct CBP to collect cash deposits of estimated countervailing duties in the amounts shown for each of the respective companies listed above and in Appendix IV for 2021, the second year covered by the period of the review, on shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review. For all non-reviewed firms, we will instruct CBP to continue to collect cash deposits at the most recent company-specific or all-others rate, as appropriate. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Interested Parties

These preliminary results are issued and published pursuant to sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.221(b)(4).

Dated: February 28, 2023.

Abdelali Elouaradia,

Deputy Assistant Secretary for Enforcement and Compliance.

Appendix I

List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Final Rescission of Review, in Part
IV. Non-Selected Companies Under Review
V. Scope of the *Order*
VI. Diversification of China's Economy
VII. Use of Facts Otherwise Available and Application of Adverse Inferences
VIII. Subsidies Valuation
IX. Interest Rate Benchmarks, Discount Rates, Inputs, Land-Use and Electricity Benchmarks
X. Analysis of Programs
XI. Recommendation

Appendix II

Companies for Which All Review Requests Were Timely Withdrawn

1. Anji Golden Elephant Bamboo Wooden Industry Co., Ltd.
2. Evermark (Yantai) Co., Ltd.
3. Fujian Province Youxi County Chang Sheng Wood Machining Co., Ltd.
4. Fujian Ruisen International Industrial Co., Ltd.
5. Gaomi Hongtai Home Furniture Co., Ltd.
6. Heze Huasheng Wooden Co., Ltd.
7. Huaan Longda Wood Industry Co., Ltd.
8. Lanzhou Xinyoulian Industrial Co., Ltd.
9. Lianyungang Tianke New Energy Technology Co., Ltd.
10. Nanping Qiangmei Import & Export Co., Ltd.
11. Oppein Home Group Inc.
12. Pucheng County Qiangmei Wood Company, Ltd.
13. Qimen Jianxing Bamboo and Wood Goods Co., Ltd.
14. Qingdao Sanhe Dacheng International Trade Co., Ltd.
15. Rizhao Duli Trade Co., Ltd.
16. Rizhao Forest International Trading Co., Ltd.
17. Rizhao Guantong Woodworking Co., Ltd.
18. Rizhao Jiayue Industry & Trading Co., Ltd.
19. Sanming Lingtong Trading Co., Ltd.
20. Sanming Lintong Trading Co., Ltd.
21. Sanming Shitong Wood Industry Co., Ltd.
22. Shandong Jicheng Decorative Material Co., Ltd.
23. Shandong Miting Household Co., Ltd.
24. Shouguang Luli Wood Industry Co., Ltd.
25. Shuyang Zhongding Decoration Materials Co., Ltd.
26. The Ancientree Cabinet Co., Ltd.
27. Xiamen Oubai Industry & Trade Co., Ltd.
28. Xuzhou Goodwill Resource Co., Ltd.
29. Xuzhou Hexi Wood Co., Ltd.
30. Yongan Tenlong Bamboo & Wood Products Co., Ltd.
31. Zhangping San Chuan Industrial & Trade Co., Ltd.
32. Zhangzhou City Jinxi Building Material Co., Ltd.
33. Zhangzhou Fukangyuan Industry and Trade Co., Ltd.
34. Zhejiang Senya Board Industry Co., Ltd.

Appendix III

Companies for Which the Review Is Rescinded Due to No Reviewable Entries

1. Fujian Sanming City Donglai Wood Co., Ltd.
2. Suqian Sulu Import & Export Trading Co., Ltd.
3. Xiamen Jinxi Building Material Co., Ltd.
4. Zhangzhou Green Wood Industry and Trade Co., Ltd.

Appendix IV

Non-Selected Companies Under Review

1. Anji Huaxin Bamboo & Wood Products Co., Ltd.
2. Aventra Inc.
3. Baixing Import and Export Trading Co., Ltd. Youxi Fujian
4. Bel Trade Wood Industrial Co.
5. Bel Trade Wood Industrial Co., Ltd. Youxi Fujian
6. Cao County Hengda Wood Products Co., Ltd.
7. China Cornici Co., Ltd.
8. Fotiou Frames Limited
9. Fujian Hongjia Craft Products Co., Ltd.
10. Fujian Shunchang Shengsheng Wood Industry Limited Company
11. Fujian Wangbin Decorative Material Co., Ltd.
12. Fujian Youxi Best Arts & Crafts Co., Ltd.
13. Fujian Zhangping Kimura Forestry Products Co., Ltd.
14. Homebuild Industries Co., Ltd.
15. Jiangsu Chensheng Forestry Development Co., Ltd.
16. Jiangsu Wenfeng Wood Co., Ltd.
17. Longquan Jiefeng Trade Co., Ltd.
18. Nanping Huatai Wood & Bamboo Co., Ltd.
19. Omni One Co., Limited

20. Putian Yihong Wood Industry Co., Ltd.
21. Raoping HongRong Handicrafts Co., Ltd. (d.b.a. Chen Chui Global Corp.)
22. Shaxian Hengtong Wood Industry Co., Ltd.
23. Shaxian Shiyiwood, Ltd.
24. Shenzhen Xinjintai Industrial Co., Ltd.
25. Shuyang Kevin International Co., Ltd.
26. Wuxi Boda Bamboo & Wood Industrial Co., Ltd.
27. Zhangzhou Wangjiamei Industry & Trade Co., Ltd.
28. Zhangzhou Yihong Industrial Co., Ltd.

[FR Doc. 2023–04573 Filed 3–6–23; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–877]

Stainless Steel Flanges From India: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2020–2021

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) determines that exporters/producers of stainless steel flanges from India made sales of subject merchandise at prices below normal value during the period of review (POR) October 1, 2020, through September 30, 2021. We continue to find that Emerson Process Management (Emerson) and Echjay Forgings Private Limited (Echjay) had no reviewable shipments of subject merchandise during the POR.

DATES: Applicable March 7, 2023.

FOR FURTHER INFORMATION CONTACT: Benito Ballesteros or Christopher Maciuba, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–7425 or (202) 482–0413, respectively.

SUPPLEMENTARY INFORMATION:

Background

Commerce selected two companies, Chandan Steel Limited (Chandan) and Goodluck India Limited (Goodluck),[1] for individual examination in this review. On November 4, 2022, Commerce published the *Preliminary Results* and invited interested parties to comment.[2] On December 17, 2022, Echjay submitted a case brief.[3] No other interested parties commented on the *Preliminary Results.* For a complete description of the events that occurred since the *Preliminary Results, see* the Issues and Decision Memorandum.[4] Commerce conducted this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of the Order

The merchandise covered by the order is stainless steel flanges from India. For a complete description of the scope, *see* the Issues and Decision Memorandum.[5]

Analysis of Comments Received

In the Issues and Decision Memorandum, we address the sole issue raised in the case brief submitted by Echjay, as reflected in Appendix I of this notice.[6] 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 *http://access.trade.gov.* In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Changes Since the Preliminary Results

We made no changes to the *Preliminary Results* based on comments from interested parties.[7] However, in the *Preliminary Results,* we stated our intention to update the applicable countervailing duty (CVD) offset rate in Chandan's and Goodluck's margin calculation, once the new rates became available.[8] Therefore, for the final results, we are updating the applicable CVD offset rates with the subsidy rates from the most recently-completed segment of the companion CVD proceeding (*i.e.,* the final results of the 2020 administrative review).[9]

Final Determination of No Shipments

We preliminarily found that Emerson and Echjay had no reviewable shipments of subject merchandise during the POR.[10] Based on the comments received from Echjay, we continue to find that Echjay had no reviewable shipments.[11] Moreover, no party commented on the *Preliminary Results* regarding the no-shipment decision for Emerson. Therefore, for these final results, we continue to find that these companies had no reviewable shipments of subject merchandise during the POR, and we will issue appropriate instructions to U.S. Customs and Border Protection (CBP) based on these final results.

Rate for Companies Not Selected for Individual Examination

The Act and Commerce's regulations do not address the rate to be applied to companies not selected for individual examination when Commerce limits its examination in an administrative review pursuant to section 777A(c)(2) of the Act. Generally, Commerce looks to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in a less-than-fair-value (LTFV) investigation, for guidance. Under section 735(c)(5)(A) of the Act, the all-others rate is normally ''an amount equal to the weighted-average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero or *de minimis* margins, and any margins determined entirely {on the basis of facts available}.''

For the final results, Commerce calculated estimated weighted-average dumping margins for Chandan and Goodluck that are not zero, *de minimis,* or based entirely on facts otherwise available. Accordingly, Commerce has continued to calculate the rate for companies not selected for individual examination using a weighted average of the margins calculated for Chandan and Goodluck weighted by each

[1] We initiated a review on both ''Good Luck Engineering Co.'' and ''Goodluck India Ltd.'' *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 86 FR 67685, 67686 (November 29, 2021). Subsequently, the company reported that Good Luck Engineering Co. is not a separate entity and is instead a business unit of Goodluck India Ltd. For the final results, the dumping margin calculated for Goodluck applies to entries from its business unit, Good Luck Engineering Co.

[2] *See Stainless Steel Flanges from India: Preliminary Results of Antidumping Duty Administrative Review, Preliminary No Shipment Determination, and Partial Rescission; 2020–2021,* 87 FR 66645 (November 4, 2022) (*Preliminary Results*) and accompanying Preliminary Decision Memorandum.

[3] *See* Echjay's Letter, ''Case Brief,'' dated December 16, 2022.

[4] *See* Memorandum, ''Stainless Steel Flanges from India: Issues and Decision Memorandum for the Final Results of the Antidumping Duty Administrative Review; 2020–2021,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[5] *Id.*

[6] *Id.*

[7] *Id.*

[8] *See* Preliminary Decision Memorandum at 11–12.

[9] *See* Memoranda, ''Final Analysis Memorandum for Chandan Steel Limited,'' dated concurrently with this notice; and ''Final Analysis Memorandum for Goodluck India Limited,'' dated concurrently with this notice.

[10] *See Preliminary Results,* 87 FR at 66646.

[11] *See* Issues and Decision Memorandum at Comment.

respondent's publicly-ranged total U.S. sale values.[12]

Final Results of Administrative Review

The final estimated weighted-average dumping margins are listed below for the POR:

Exporter/producer	Weighted-average dumping margin (percent)
Chandan Steel Limited	0.65
Goodluck India Limited[13]	50.72
Companies Not Selected for Individual Examination[14] ..	13.22

Disclosure

We intend to disclose the calculations performed for the final results within five days of the publication of this notice in the **Federal Register**, in accordance with 19 CFR 351.224(b).

Assessment Rates

Pursuant to section 751(a)(2)(C) of the Act, and 19 CFR 351.212(b)(1), Commerce has determined, and CBP shall assess, antidumping duties on all appropriate entries of subject merchandise covered by this review. Pursuant to 19 CFR 351.212(b)(1), for Chandan and Goodluck, we calculated importer-specific *ad valorem* assessment rates based on the ratio of the total amount of dumping calculated for the examined sales to the total entered value of the sales.

For entries of subject merchandise during the POR produced any of these companies under review for which they did not know their merchandise was destined for the United States, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.

For the companies which were not selected for individual examination, we will assign an assessment rate based on the methodology described in the ''Rate for Companies Not Selected for Individual Examination'' section, above.

We intend to issue appropriate assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided for by section 751(a)(2) of the Act: (1) the cash deposit rate for Chandan, Goodluck, and the companies not selected for individual examination will be the rate established in the final results of this administrative review; (2) for merchandise exported by producers or exporters not covered by this review but covered in a prior segment of this proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recently-completed segment of this proceeding; (3) if the exporter is not a firm covered by this review, a previous review, or the original less than fair value (LTFV) investigation, but the producer is, then the cash deposit rate will be the rate established for the most recently-completed segment of this proceeding for the producer of the merchandise; (4) the case deposit rate for all other producers or exporters will continue to be 7.00 percent,[15] the all-others rate established in the LTFV investigation. These cash deposits, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping and/or countervailing duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping and/or countervailing duties occurred and the subsequent assessment of double antidumping duties, and/or an increase in the amount of antidumping duties by the amount of the countervailing duties.

Administrative Protective Order

This notice also serves as a 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(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

Notification to Interested Parties

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i) of the Act, and 19 CFR 351.221(b)(5).

Dated: March 1, 2023.

Abdelali Elouaradia,

Deputy Assistant Secretary for Enforcement and Compliance.

Appendix I

List of Topics Discussed in the Issues and Decision Memorandum

I. Summary
II. Background
III. Scope of the *Order*
IV. Changes Since the *Preliminary Results*
V. Discussion of the Issue Comment: Echjay No Shipment Status
VI. Recommendation

Appendix II

List of Companies Not Selected for Individual Examination

1. Ae Engineers & Exporters
2. Balkrishna Steel Forge Pvt. LTD
3. BFN Forgings Private Limited (formerly Bebitz Flanges Works Private Limited)[16]
4. Broadway Overseas Ltd.
5. CHW Forge Private

[12] *See* Memorandum, ''Calculation of Margin for Respondents Not Selected for Individual Examination,'' dated concurrently with this notice; *see also, e.g., Xanthan Gum from the People's Republic of China: Preliminary Results of the Antidumping Duty Administrative Review, and Partial Rescission; 2018–2019,* 85 FR 75686, 74687 (November 23, 2020), unchanged in *Xanthan Gum from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2018–2019,* 86 FR 16189 (March 26, 2021); *Emulsion Styrene-Butadiene Rubber from the Republic of Korea: Preliminary Results of the Administrative Review of the Antidumping Duty Order; 2018–2019,* 85 FR 39534 (July 1, 2020), unchanged in *Emulsion Styrene-Butadiene Rubber from the Republic of Korea: Final Results of the Administrative Review of the Antidumping Duty Order; 2018–2019,* 85 FR 67512 (October 23, 2020); *Albemarle Corp.* v. *United States,* 821 F. 3d 1345 (Fed. Cir. 2016).

[13] This rate applies to the following business unit: Goodluck India Limited and Good Luck Engineering Co.

[14] *See* Appendix II for a full list of these companies.

[15] *See Stainless Steel Flanges from India: Notice of Court Decision Not in Harmony with the Final Determination of Antidumping Investigation; Notice of Amended Final Determination,* 86 FR 50325 (August 30, 2021).

[16] BFN Forgings Private Limited (formerly Bebitz Flanges Works Private Limited) is part of a collapsed entity with the following companies: Viraj Impoexpo, Ltd.; Bebitz USA, Inc. (Bebitz USA); Flanschen werk Bebitz GmbH (FBG); Viraj Alloys, Ltd.; Viraj Forgings, Ltd.; Viraj Profiles Limited (Viraj); and Viraj USA, Inc. (Viraj USA). *See e.g., Stainless Steel Flanges from India: Final Affirmative Determination of Sales at Less Than Fair Value and Final Affirmative Critical Circumstance Determination,* 83 FR 40745 (August 16, 2018). Commerce inadvertently referenced Viraj Profiles Limited as a separate entity under review in the *Preliminary Results. See* 87 FR at 66648.

6. Dart Global Logistics Pvt.
7. Dongguan Good Luck Furniture Industrial Co., Ltd.
8. Dongguan Good Luck Industrial Co., Ltd.
9. Expeditors International
10. G I Auto Private
11. G.I. Auto Pvt. Ltd.
12. Hilton Metal Forging Limited
13. Jai Auto Pvt. Limited
14. Jay Jagdamba Limited
15. Katariya Steel Distributors
16. Kisaan Die Tech Pvt Ltd.
17. Pradeep Metals Limited
18. Rajan Techno Cast
19. Rajan Techno Cast Pvt. Ltd.
20. Shree Jay Jagdamba Flanges Private Limited
21. Transworld Enterprises

[FR Doc. 2023–04666 Filed 3–6–23; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–074]

Common Alloy Aluminum Sheet From the People's Republic of China: Preliminary Results of Countervailing Duty Administrative Review; 2021

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that countervailable subsidies were provided to producers and exporters of common alloy aluminum sheet (CAAS) from the People's Republic of China (China) during the period of review (POR), January 1, 2021, through December 31, 2021. We invite interested parties to comment on these preliminary results.

DATES: Applicable March 7, 2023.

FOR FURTHER INFORMATION CONTACT: James R. Hepburn or Scarlet K. Jaldin, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–1882 or (202) 482–4275, respectively.

SUPPLEMENTARY INFORMATION:

Background

On April 12, 2022, Commerce published in the **Federal Register** a notice of initiation of an administrative review of the countervailing duty order on CAAS from China with respect to three companies.[1] On September 30, 2022, Commerce extended the deadline for completion of these preliminary results until no later than February 28, 2023.[2]

For a complete description of the events that followed the initiation of this review, *see* the Preliminary Decision Memorandum.[3] A list of topics discussed in the Preliminary Decision Memorandum is included as the appendix to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *https://access.trade/gov/public/FRNoticesListLayout.aspx.*

Scope of the Order

The product covered by the *Order* is CAAS from China. For a complete description of the scope of this *Order, see* the Preliminary Decision Memorandum.

Methodology

Commerce is conducting this administrative review in accordance with section 751(a)(1)(A) of the Tariff Act of 1930, as amended (the Act). For each of the subsidy programs preliminarily found to be countervailable, we preliminarily determine that there is a subsidy, *i.e.,* a financial contribution from an authority that gives rise to a benefit to the recipient and that the subsidy is specific.[4] For a full description of the methodology underlying our preliminary results, including our reliance, in part, on facts available with adverse inferences pursuant to sections 776(a) and (b) of the Act, *see* the Preliminary Decision Memorandum.

In making these findings, Commerce relied, in part, on facts available and, because the Government of China (GOC) did not respond to the Initial Questionnaire,[5] Commerce finds that the GOC did not provide necessary information, as requested. On that basis, Commerce determines that the GOC did not act to the best of its ability to respond to Commerce's request for information and, therefore, in reaching these preliminary results of review, we drew an adverse inference where appropriate in selecting from among the facts otherwise available. For further information, *see* the ''Use of Facts Otherwise Available and Application of Adverse Inferences'' section in the Preliminary Decision Memorandum.

Preliminary Results of Review

In accordance with 19 CFR 351.221(b)(4)(i), Commerce calculated a countervailable subsidy rate for the mandatory respondents that are identified below. Because there are no other producers or exporters subject to this review and not selected for individual examination (*i.e.,* non-selected companies), Commerce does not need to establish a rate for such companies in this review.

[1] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 87 FR 21619, 21635 (April 12, 2022); *see also Common Alloy Aluminum Sheet from the People's Republic of China: Countervailing Duty Order,* 84 FR 2157 (February 6, 2019) (*Order*).

[2] *See* Memorandum, ''Extension of the Deadline for Preliminary Results of Countervailing Duty Administrative Review; 2021,'' dated September 30, 2022.

[3] *See* Memorandum, ''Decision Memorandum for the Preliminary Results of the Countervailing Duty Administrative Review: Common Alloy Aluminum Sheet from the People's Republic of China; 2021,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[4] *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

[5] *See* Commerce's Letter, ''Countervailing Duty Questionnaire,'' dated July 13, 2022 (Initial Questionnaire).

Commerce preliminarily determines the net countervailable subsidy rates for the period January 1, 2021, through December 31, 2021, are as follows:

Company	Subsidy rate (percent *ad valorem*)
Alcha International Holdings Limited; Jiangsu Alcha Aluminium Group Co., Ltd., and Jiangsu Alcha Aluminum Group Co., Ltd. (both formally known as Jiangsu Alcha Aluminium Co., Ltd. or Jiangsu Alcha Aluminum Co., Ltd.),[6] Baotou Alcha Aluminium Co., Ltd., Baotou Alcha Aluminum Co., Ltd., Baotou Alcha North Aluminum Co., Ltd., and Baotou Changlv Northern Aluminium Industry Co., Ltd.;[7] and Jiangsu Alcha New Energy Materials Co., Ltd.[8]	10.88
Yinbang Clad Material Co., Ltd.	11.97

Assessment Rates

In accordance with 19 CFR 351.221(b)(4)(i), we preliminarily assigned subsidy rates in the amounts for the producers/exporters shown above. Upon completion of the administrative review, consistent with section 751(a)(1) of the Act and 19 CFR 351.212(b)(2), Commerce shall determine, and CBP shall assess, countervailing duties on all appropriate entries covered by this review. With regard to Jiangsu Alcha, we intend to instruct CBP to assess countervailing duties on all appropriate entries covered by this review under both its old and new names (*i.e.,* ''Jiangsu Alcha Aluminium Group Co., Ltd.,'' ''Jiangsu Alcha Aluminum Group Co., Ltd.,'' ''Jiangsu Alcha Aluminium Co., Ltd.,'' and ''Jiangsu Alcha Aluminum Co., Ltd.'' Concerning Baotou Alcha, we intend to instruct CBP to assess countervailing duties on all appropriate entries covered by this review for all of its names identified in this notice. Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**.

If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

Cash Deposit Rates

Pursuant to section 751(a)(1) of the Act, Commerce intends, upon publication of the final results, to instruct CBP to collect cash deposits of estimated countervailing duties in the amounts indicated for the producers/exporters listed above on shipments of subject merchandise entered or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review. With regard to Jiangsu Alcha, we intend to instruct CBP to collect cash deposits of estimated countervailing duties under its new names (*i.e.,* ''Jiangsu Alcha Aluminium Group Co., Ltd.,'' ''Jiangsu Alcha Aluminum Group Co., Ltd.''). Concerning Baotou Alcha, we intend to instruct CBP to collect cash deposits of estimated countervailing duties under all of its names identified in this notice. If the rate calculated in the final results is zero or *de minimis,* no cash deposit will be required on shipments of the subject merchandise entered or withdrawn from warehouse, for consumption on or after the date of publication of final results of this review. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Disclosure and Public Comment

Commerce will disclose to interested parties the calculations performed for these preliminary results within five days of the date of publication of this notice.[9] Interested parties may submit case briefs no later than 30 days of publication of the preliminary results of review.[10] Rebuttals to case briefs may be filed no later than seven days after the case briefs.[11] An electronically-filed document must be received successfully in its entirety by ACCESS by 5:00 p.m. Eastern Time on the established deadline. Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.[12] Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case or rebuttal briefs in this review are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.[13]

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance within 30 days of the publication date of this notice.[14] Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants and whether an participant is a foreign national; and (3) a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Unless the deadline is extended, we intend to issue the final results of this administrative review, which will include our analysis of the issues raised in the case briefs, within 120 days after the date of publication of these preliminary results, pursuant to section 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(1).

Notification to Interested Parties

These preliminary results are issued and published pursuant to sections 751(a)(l) and 777(i)(l) of the Act, and 19 CFR 351.221(b)(4).

[6] We initiated this review on Jiangsu Alcha Aluminium Co., Ltd. However, it was reported that ''Jiangsu Alcha Aluminium Co., Ltd.,'' also known as ''Jiangsu Alcha Aluminum Co., Ltd.,'' legally changed its name to ''Jiangsu Alcha Aluminium Group Co., Ltd.'' on May 21, 2019. It was also reported that both ''Jiangsu Alcha Aluminium Group Co., Ltd.'' and ''Jiangsu Alcha Aluminum Group Co., Ltd.'' refer to the same entity. Accordingly, we intend to treat ''Jiangsu Alcha Aluminium Group Co., Ltd.'' and ''Jiangsu Alcha Aluminum Group Co., Ltd.'' (formally known as ''Jiangsu Alcha Aluminium Co., Ltd.'' or ''Jiangsu Alcha Aluminum Co., Ltd.'') as one entity (Jiangsu Alcha). For further discussion, *see* the Preliminary Decision Memorandum at section ''II. Background.''

[7] It was reported that although the legal name for one of Jiangsu Alcha's subsidiaries is ''Baotou Alcha Aluminium Co., Ltd.,'' other names (*i.e.,* ''Baotou Alcha Aluminum Co., Ltd.,'' ''Baotou Alcha North Aluminum Co., Ltd.,'' and ''Baotou Changlv Northern Aluminium Industry Co., Ltd.'') also refer to the same entity due to different English translations of its Chinese-language name. Accordingly, we intend to treat ''Baotou Alcha Aluminium Co., Ltd.,'' ''Baotou Alcha Aluminum Co., Ltd.,'' ''Baotou Alcha North Aluminum Co., Ltd.,'' and ''Baotou Changlv Northern Aluminium Industry Co., Ltd.'' as one entity (Baotou Alcha). For further discussion, *see* the Preliminary Decision Memorandum at section ''II. Background.''

[8] We preliminarily find that Baotou and Jiangsu Alcha New Energy Materials Co., Ltd. are crossed-owned with Jiangsu Alcha. In addition, Alcha International is wholly owned by Jiangsu Alcha. For further discussion, See Preliminary Decision Memorandum at section ''B. Attribution of Subsidies'' under ''V. Subsidies Valuation.''

[9] *See* 19 CFR 35 l.224(b).

[10] *See* 19 CFR 35 l.309(c).

[11] *See* 19 CFR 35 l.309(d).

[12] *See also Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19; Extension of Effective Period,* 85 FR 17006 (May 18, 2020) ; and *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19; Extension of Effective Period,* 85 FR 41363 (July 10, 2020).

[13] *See* 19 CFR 351.309(c)(1)(ii) and 351.309(d)(1).

[14] *See* 19 CFR 351.310(c).

Dated: February 28, 2023.

Abdelali Elouaradia,

Deputy Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Scope of the *Order*
IV. Diversification of China's Economy
V. Subsidies Valuation
VI. Interest Rate Benchmarks, Discount Rates, and Benchmarks for Measuring Adequacy of Remuneration
VII. Use of Facts Otherwise Available and Application of Adverse Inferences
VIII. Analysis of Programs
IX. Recommendation

[FR Doc. 2023–04569 Filed 3–6–23; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–010, C–570–011]

Crystalline Silicon Photovoltaic Products From the People's Republic of China: Preliminary Results of Changed Circumstances Reviews, and Intent To Revoke the Antidumping and Countervailing Duty Orders, in Part

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On August 8, 2022, the U.S. Department of Commerce (Commerce) received a request for revocation, in part, of the antidumping duty (AD) and countervailing duty (CVD) orders on crystalline silicon photovoltaic products (solar products) from the People's Republic of China (China), from Shenzen Hello Tech Energy Co., Ltd. (Hello Tech) with respect to certain off-grid small portable crystalline silicon photovoltaic (CSPV) panels as described below. We preliminary determine to revoke, in part, the solar products AD and CVD orders with respect to these products. Interested parties are invited to comment on these preliminary results.

DATES: Applicable March 7, 2023.

FOR FURTHER INFORMATION CONTACT: Daniel Alexander, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–4313.

SUPPLEMENTARY INFORMATION:

Background

On February 18, 2015, Commerce published the AD and CVD orders on solar products from China.[1] On August 8, 2022, Hello Tech, a Chinese producer and exporter of subject merchandise, requested that Commerce conduct changed circumstances reviews (CCR) to find that it is appropriate to revoke the *Orders,* in part, with respect to certain off-grid small portable CSPV panels, pursuant to section 751(b)(1) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.216(b).[2] Hello Tech's CCR request included a letter from the American Alliance for Solar Manufacturing (the Alliance) (a coalition of domestic producers of solar cells), which stated that the Alliance did not oppose Hello Tech's request for changed circumstances reviews and its proposed exclusion language.[3] On September 29, 2022, we published the notice of initiation of the requested CCRs.[4] In the *Initiation Notice* we invited interested parties to provide comments and/or factual information regarding these CCRs, including comments on industry support and the proposed partial revocation language.[5] We received no comments or factual information.

Scope of the Orders

The merchandise covered by these *Orders* is modules, laminates and/or panels consisting of crystalline silicon photovoltaic cells, whether or not partially or fully assembled into other products, including building integrated materials. For purposes of these *Orders,* subject merchandise includes modules, laminates and/or panels assembled in China consisting of crystalline silicon photovoltaic cells produced in a customs territory other than China. Subject merchandise includes modules, laminates and/or panels assembled in China consisting of crystalline silicon photovoltaic cells of thickness equal to or greater than 20 micrometers, having a p/n junction formed by any means, whether or not the cell has undergone other processing, including, but not limited to, cleaning, etching, coating, and/or addition of addition of materials (including, but not limited to, metallization and conductor patterns) to collect and forward the electricity that is generated by the cell.

Excluded from the scope of the *Orders* are thin film photovoltaic products produced from amorphous silicon (a-Si), cadmium telluride (CdTe), or copper indium gallium selenide (CIGS). Also excluded from the scope of these *Orders* are modules, laminates and/or panels assembled in China, consisting of crystalline silicon photovoltaic cells, not exceeding 10,000 mm^2 in surface area, that are permanently integrated into a consumer good whose function is other than power generation and that consumes the electricity generated by the integrated crystalline silicon photovoltaic cells. Where more than one module, laminate and/or panel is permanently integrated into a consumer good, the surface area for purposes of this exclusion shall be the total combined surface area of all modules, laminates and/or panels that are integrated into the consumer good.

Further, also excluded from the scope of these *Orders* are any products covered by the existing antidumping and countervailing duty orders on crystalline silicon photovoltaic cells, whether or not assembled into modules, laminates and/or panels, from China. Additionally, excluded from the scope of these *Orders* are solar panels that are: (1) less than 300,000 mm^2 in surface area; (2) less than 27.1 watts in power; (3) coated across their entire surface with a polyurethane doming resin; and (4) joined to a battery charging and maintaining unit (which is an acrylonitrile butadiene styrene (ABS) box that incorporates a light emitting diode (LED)) by coated wires that include a connector to permit the incorporation of an extension cable. The battery charging and maintaining unit utilizes high-frequency triangular pulse waveforms designed to maintain and extend the life of batteries through the reduction of lead sulfate crystals. The above-described battery charging and maintaining unit is currently available under the registered trademark ''SolarPulse.'' Also excluded from the scope of these *Orders* are off-grid crystalline silicon photovoltaic panels without a glass cover with the following characteristics: (1) total power output of 500 watts or less per panel; (2) maximum surface area of 8,000 cm^2 per panel; (3) unit does not include a built-in inverter; (4) unit has visible parallel grid collector metallic wire lines every

[1] *See Certain Crystalline Silicon Photovoltaic Products from the People's Republic of China: Antidumping Duty Order; and Amended Final Affirmative Countervailing Duty Determination and Countervailing Duty Order,* 80 FR 8592 (February 18, 2015) (collectively, *Orders*).

[2] *See* Hello Tech's Letter, ''Certain Crystalline Silicon Photovoltaic Products from the People's Republic of China: Hello Tech's Resubmitted Request for Changed Circumstances Reviews,'' dated August 8, 2022 (CCR Request).

[3] *Id.* at Exhibit 7.

[4] *See Crystalline Silicon Photovoltaic Products from the People's Republic of China: Notice of Initiation of Changed Circumstances Reviews, and Consideration of Revocation of the Antidumping and Countervailing Duty Orders in Part,* 87 FR 59043 (September 29, 2022) (*Initiation Notice*).

[5] *Id.,* 87 FR at 59044.

2–40 millimeters across each solar panel (depending on model); (5) solar cells are encased in laminated frosted PET material without stitching; (6) the panel is encased in polyester fabric with visible stitching which includes a Velcro-type storage pocket and unit closure, or encased within a Neoprene clamshell (depending on model); and (7) includes LED indicator.

Merchandise covered by these *Orders* is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under subheadings 8501.61.0000, 8507.20.8030, 8507.20.8040, 8507.20.8060, 8507.20.8090, 8541.40.6015, 8541.40.6020, 8541.40.6030, 8541.40.6035 and 8501.31.8000. These HTSUS subheadings are provided for convenience and customs purposes; the written description of the scope of these *Orders* is dispositive.[6]

Scope of the CCRs

Hello Tech requests that Commerce revoke the *Orders,* in part, to exclude from the scope off-grid portable crystalline silicon photovoltaic panels, with or without a glass cover, with the following characteristics:

(A) a total power output of 200 watts or less per panel;

(B) a maximum surface area of 16,000 cm^2 per panel;

(C) no built-in inverter;

(D) an integrated handle or a handle attached to the package for ease of carry;

(E) one or more integrated kickstands for easy installation or angle adjustment; and

(F) a wire of not less than 3 meters either permanently connected or attached to the package that terminates in an 8mm diameter male barrel connector.

Preliminary Results of CCRs and Intent To Revoke the Orders, in Part

Pursuant to section 751(d)(1) of the Act, and 19 CFR 351.222(g), Commerce may revoke an AD or CVD order, in whole or in part, based on a review under section 751(b) of the Act (*i.e.,* a CCR). Section 751(b)(1) of the Act requires a CCR to be conducted upon receipt of a request which shows changed circumstances sufficient to warrant a review. Section 782(h)(2) of the Act gives Commerce the authority to revoke an order if producers accounting for substantially all of the production of the domestic like product have expressed a lack of interest in the order. Section 351.222(g) of Commerce's regulations provides that Commerce will conduct a CCR of an AD or CVD order under 19 CFR 351.216, and may revoke an order (in whole or in part), if it concludes that: (i) producers accounting for substantially all of the production of the domestic like product to which the order pertains have expressed a lack of interest in the relief provided by the order, in whole or in part; or (ii) if other changed circumstances sufficient to warrant revocation exist. Thus, both the Act and Commerce's regulations require that ''substantially all'' domestic producers express a lack of interest in the order for Commerce to revoke the order, in whole or in part.[7] In its administrative practice, Commerce has interpreted ''substantially all'' to represent producers accounting for at least 85 percent of U.S. production of the domestic like product.[8]

Hello Tech submitted a letter from the Alliance, a coalition of domestic producers of the domestic like product, which stated that the Alliance did not oppose the changed circumstances reviews or the specific exclusion language proposed by Hello Tech.[9] In that letter, the Alliance did not indicate its share of production of the domestic like product.[10] Thus, Commerce was unable to determine, at the time that it initiated these CCRs, whether producers accounting for substantially all of the U.S. production of the domestic like product lacked interest in the *Orders* with respect to the off-grid small portable CSPV panels under consideration here. As a result, Commerce did not issue a combined notice of initiation and preliminary results in these CCRs.[11] Instead, as stated above, in the *Initiation Notice,* Commerce invited interested parties to provide comments and/or factual information regarding these CCRs, including comments on industry support and the proposed partial revocation language. No party submitted comments. Accordingly, we find that the domestic industry has expressed no opposition with respect to the proposed revocation, in part, of the *Orders.*

In light of the Alliance's statement of lack of interest in maintaining the *Orders* with respect to the off-grid small portable CSPV panels described by Hello Tech, and in the absence of any other interested party comments addressing the issue of domestic industry support, we preliminarily conclude that producers accounting for substantially all of the production of the domestic like product to which the *Orders* pertain lack interest in the relief provided by the *Orders* with respect to the off-grid small portable CSPV panels that are the subject of Hello Tech's CCR request. Thus, we preliminarily determine that changed circumstances warrant revocation of the *Orders,* in part, with respect to such panels. Accordingly, we are notifying the public of our intent to revoke the *Orders,* in part, with respect to the off-grid small portable CSPV panels described in the ''Scope of the CCRs'' section above.

If we make a final determination to revoke the *Orders* in part, then Commerce will apply this determination to each order as follows. Because we have completed administrative reviews of the *Orders,* the partial revocation will be retroactively applied to unliquidated entries of merchandise subject to the CCRs that were entered or withdrawn from warehouse, for consumption, on or after the day following the last day of the period covered by the most recently completed administrative reviews of the *Orders,* and which are not covered by automatic liquidation.

We will consider comments from interested parties on these preliminary results before issuing the final results of these CCRs.[12]

Public Comment

Interested parties are invited to comment on these preliminary results of CCRs in accordance with 19 CFR 351.309(c)(1)(ii). Written comments may be submitted no later than 14 days after the date of publication of these preliminary results in the **Federal Register**. Rebuttal comments, limited to issues raised in written comments, may be filed no later than seven days after the due date for initial comments.[13] All submissions must be filed electronically using Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System

[6] *See Orders.*

[7] *See* section 782(h) of the Act; and 19 CFR 351.222(g).

[8] *See, e.g., Honey from Argentina: Antidumping and Countervailing Duty Changed Circumstances Reviews; Preliminary Intent to Revoke Antidumping and Countervailing Duty Orders,* 77 FR 67790, 67791 (November 14, 2012), unchanged in *Honey from Argentina: Final Results of Antidumping and Countervailing Duty Changed Circumstances Reviews; Revocation of Antidumping and Countervailing Duty Orders,* 77 FR 77029 (December 31, 2012).

[9] *See* CCR Request at Exhibit 7.

[10] *Id.; see also Initiation Notice.*

[11] *See Initiation Notice.*

[12] *See, e.g., Aluminum Extrusions from the People's Republic of China: Preliminary Results of Changed Circumstances Reviews, and Intent to Revoke Antidumping and Countervailing Duty Orders in Part,* 78 FR 66895 (November 7, 2013); and 19 CFR 351.222(g)(3)(v).

[13] *See* 19 CFR 351.309(d); *see also Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19; Extension of Effective Period,* 85 FR 41363 (July 10, 2020) (*Temporary Rule*).

(ACCESS).[14] ACCESS is available to registered users at *https://access.trade.gov.* An electronically filed document must be successfully received in its entirety by ACCESS, by 5 p.m. Eastern Time on the deadlines set forth in this notice. Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.[15]

Final Results of the CCRs

Commerce will issue the final results of these CCRs, which will include its analysis of any written comments, no later than 270 days after the date on which these reviews were initiated.[16] If, in the final results of these reviews, Commerce continues to determine that changed circumstances warrant the revocation of the *Orders,* in part, we will instruct U.S. Customs and Border Protection (CBP) to liquidate without regard to ADs or CVDs, and to refund any estimated ADs and CVDs deposited on all unliquidated entries of the merchandise covered by the revocation that are not covered by the final results of an administrative review or an automatic liquidation instruction to CBP. The current requirement for cash deposits of estimated ADs and CVDs on all entries of subject merchandise will continue unless they are modified pursuant to the final results of these changed CCRs.

These preliminary results of these reviews and this notice are published in accordance with sections 751(b) and 777(i) of the Act and 19 CFR 351.216, 19 CFR 351.221(c)(3), and 19 CFR 351.222.

Dated: February 27, 2023.

Abdelali Elouaradia,

Deputy Assistant Secretary for Enforcement and Compliance.

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[14] *See generally* 19 CFR 351.303.

[15] *See Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19; Extension of Effective Period,* 85 FR 29615 (May 18, 2020); and *Temporary Rule.*

[16] *See* 19 CFR 351.216(e).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–979, C–570–980]

Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From the People's Republic of China: Preliminary Results of Changed Circumstances Reviews, and Intent To Revoke the Antidumping and Countervailing Duty Orders, in Part

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On August 8, 2022, the U.S. Department of Commerce (Commerce) received a request for revocation, in part, of the antidumping duty (AD) and countervailing duty (CVD) orders on crystalline silicon photovoltaic cells, whether or not assembled into modules (solar cells), from the People's Republic of China (China) from Shenzen Hello Tech Energy Co., Ltd. (Hello Tech) with respect to certain off-grid small portable crystalline silicon photovoltaic (CSPV) panels as described below. We preliminary determine to revoke, in part, the solar cells AD and CVD orders with respect to these products. Interested parties are invited to comment on these preliminary results.

DATES: Applicable March 7, 2023.

FOR FURTHER INFORMATION CONTACT: Daniel Alexander, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–4313.

SUPPLEMENTARY INFORMATION:

Background

On December 7, 2012, Commerce published the AD and CVD orders on solar cells from China.[1] On August 8, 2022, Hello Tech, a Chinese producer and exporter of subject merchandise, requested that Commerce conduct changed circumstances reviews (CCR) to find that it is appropriate to revoke the *Orders,* in part, with respect to certain off-grid small portable CSPV panels, pursuant to section 751(b)(1) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.216(b).[2] Hello Tech's CCR request included a letter from the American Alliance for Solar Manufacturing (the Alliance) (a coalition of domestic producers of solar cells), which stated that the Alliance did not oppose Hello Tech's request for changed circumstances reviews and its proposed exclusion language.[3] On September 29, 2022, we published the notice of initiation of the requested CCRs.[4] In the *Initiation Notice,* we invited interested parties to provide comments and/or factual information regarding these CCRs, including comments on industry support and the proposed partial revocation language.[5] We received no comments or factual information.

Scope of the Orders

The merchandise covered by these *Orders* is crystalline silicon photovoltaic cells, and modules, laminates, and panels, consisting of crystalline silicon photovoltaic cells, whether or not partially or fully assembled into other products, including, but not limited to, modules, laminates, panels and building integrated materials.

These *Orders* cover crystalline silicon photovoltaic cells of thickness equal to or greater than 20 micrometers, having a p/n junction formed by any means, whether or not the cell has undergone other processing, including, but not limited to, cleaning, etching, coating, and/or addition of materials (including, but not limited to, metallization and conductor patterns) to collect and forward the electricity that is generated by the cell.

Merchandise under consideration may be described at the time of importation as parts for final finished products that are assembled after importation, including, but not limited to, modules, laminates, panels, building-integrated modules, building-integrated panels, or other finished goods kits. Such parts that otherwise meet the definition of merchandise under consideration are included in the scope of the *Orders.*

[1] *See Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value, and Antidumping Duty Order,* 77 FR 73018 (December 7, 2012); *see also Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People's Republic of China: Countervailing Duty Order,* 77 FR 73017 (December 7, 2012) (collectively, *Orders*).

[2] *See* Hello Tech's Letter, ''Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules from the People's Republic of China: Hello Tech's Resubmitted Request for Changed Circumstances Reviews,'' dated August 8, 2022 (CCR Request).

[3] *Id.* at Exhibit 7.

[4] *See Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People's Republic of China: Notice of Initiation of Changed Circumstances Reviews, and Consideration of Revocation of the Antidumping and Countervailing Duty Orders in Part,* 87 FR 59052 (September 29, 2022) (*Initiation Notice*).

[5] *Id.,* 87 FR at 59053.

Excluded from the scope of the *Orders* are thin film photovoltaic products produced from amorphous silicon (a-Si), cadmium telluride (CdTe), or copper indium gallium selenide (CIGS).

Also excluded from the scope of the *Orders* are crystalline silicon photovoltaic cells, not exceeding 10,000 mm2 in surface area, that are permanently integrated into a consumer good whose function is other than power generation and that consumes the electricity generated by the integrated crystalline silicon photovoltaic cell. Where more than one cell is permanently integrated into a consumer good, the surface area for purposes of this exclusion shall be the total combined surface area of all cells that are integrated into the consumer good.

Additionally, excluded from the scope of the *Orders* are panels with surface area from 3,450 mm2 to 33,782 mm2 with one black wire and one red wire (each of type 22 AWG or 24 AWG not more than 206 mm in length when measured from panel extrusion), and not exceeding 2.9 volts, 1.1 amps, and 3.19 watts. For the purposes of this exclusion, no panel shall contain an internal battery or external computer peripheral ports.

Also excluded from the scope of the *Orders* are:

1. Off grid CSPV panels in rigid form with a glass cover, with the following characteristics:

(A) a total power output of 100 watts or less per panel;

(B) a maximum surface area of 8,000 cm2 per panel;

(C) do not include a built-in inverter;

(D) must include a permanently connected wire that terminates in either an 8mm male barrel connector, or a two-port rectangular connector with two pins in square housings of different colors;

(E) must include visible parallel grid collector metallic wire lines every 1–4 millimeters across each solar cell; and

(F) must be in individual retail packaging (for purposes of this provision, retail packaging typically includes graphics, the product name, its description and/or features, and foam for transport); and

2. Off grid CSPV panels without a glass cover, with the following characteristics:

(A) a total power output of 100 watts or less per panel;

(B) a maximum surface area of 8,000 cm2 per panel;

(C) do not include a built-in inverter;

(D) must include visible parallel grid collector metallic wire lines every 1–4 millimeters across each solar cell; and

(E) each panel is

1. permanently integrated into a consumer good;

2. encased in a laminated material without stitching, or

3. has all of the following characteristics: (i) the panel is encased in sewn fabric with visible stitching, (ii) includes a mesh zippered storage pocket, and (iii) includes a permanently attached wire that terminates in a female USB–A connector.

In addition, the following CSPV panels are excluded from the scope of the *Orders:* off-grid CSPV panels in rigid form with a glass cover, with each of the following physical characteristics, whether or not assembled into a fully completed off-grid hydropanel whose function is conversion of water vapor into liquid water:

(A) A total power output of no more than 80 watts per panel;

(B) A surface area of less than 5,000 square centimeters (cm2) per panel;

(C) Do not include a built-in inverter;

(D) Do not have a frame around the edges of the panel;

(E) Include a clear glass back panel; and

(F) Must include a permanently connected wire that terminates in a two-port rectangular connector.

Modules, laminates, and panels produced in a third-country from cells produced in China are covered by the *Orders;* however, modules, laminates, and panels produced in China from cells produced in a third-country are not covered by the *Orders.*

Merchandise covered by the *Orders* is currently classified in the Harmonized Tariff System of the United States (HTSUS) under subheadings 8501.61.0000, 8507.20.80, 8541.40.6020, 8541.40.6030, and 8501.31.8000. These HTSUS subheadings are provided for convenience and customs purposes; the written description of the scope of the *Orders* is dispositive.[6]

Scope of the CCRs

Hello Tech requests that Commerce revoke the *Orders,* in part, to exclude from the scope off-grid small portable crystalline silicon photovoltaic panels, with or without a glass cover, with the following characteristics:

(A) a total power output of 200 watts or less per panel;

(B) a maximum surface area of 16,000 cm^2 per panel;

(C) no built-in inverter;

(D) an integrated handle or a handle attached to the package for ease of carry;

(E) one or more integrated kickstands for easy installation or angle adjustment; and

(F) a wire of not less than 3 meters either permanently connected or attached to the package that terminates in an 8 mm diameter male barrel connector.

Preliminary Results of CCRs and Intent To Revoke the Orders, in Part

Pursuant to section 751(d)(1) of the Act, and 19 CFR 351.222(g), Commerce may revoke an AD or CVD order, in whole or in part, based on a review under section 751(b) of the Act (*i.e.,* a CCR). Section 751(b)(1) of the Act requires a CCR to be conducted upon receipt of a request which shows changed circumstances sufficient to warrant a review. Section 782(h)(2) of the Act gives Commerce the authority to revoke an order if producers accounting for substantially all of the production of the domestic like product have expressed a lack of interest in the order. Section 351.222(g) of Commerce's regulations provides that Commerce will conduct a CCR of an AD or CVD order under 19 CFR 351.216, and may revoke an order (in whole or in part), if it concludes that: (i) producers accounting for substantially all of the production of the domestic like product to which the order pertains have expressed a lack of interest in the relief provided by the order, in whole or in part; or (ii) if other changed circumstances sufficient to warrant revocation exist. Thus, both the Act and Commerce's regulations require that ''substantially all'' domestic producers express a lack of interest in the order for Commerce to revoke the order, in whole or in part.[7] In its administrative practice, Commerce has interpreted ''substantially all'' to represent producers accounting for at least 85 percent of U.S. production of the domestic like product.[8]

Hello Tech submitted a letter from the Alliance, a coalition of U.S. producers of the domestic like product, which stated that the Alliance did not oppose the changed circumstances reviews or the specific exclusion language proposed by Hello Tech.[9] In that letter, the Alliance did not indicate its share of production of the domestic like

[6] *See Orders.*

[7] *See* section 782(h) of the Act; and 19 CFR 351.222(g).

[8] *See, e.g., Honey from Argentina; Antidumping and Countervailing Duty Changed Circumstances Reviews; Preliminary Intent to Revoke Antidumping and Countervailing Duty Orders,* 77 FR 67790, 67791 (November 14, 2012), unchanged in *Honey from Argentina; Final Results of Antidumping and Countervailing Duty Changed Circumstances Reviews; Revocation of Antidumping and Countervailing Duty Orders,* 77 FR 77029 (December 31, 2012).

[9] *See* CCR Request at Exhibit 7.

product.[10] Thus, Commerce was unable to determine, at the time that it initiated these CCRs, whether producers accounting for substantially all of the U.S. production of the domestic like product lacked interest in the *Orders* with respect to the off-grid small portable CSPV panels under consideration here. As a result, Commerce did not issue a combined notice of initiation and preliminary results in these CCRs.[11] Instead, as stated above, in the *Initiation Notice,* Commerce invited interested parties to provide comments and/or factual information regarding these CCRs, including comments on industry support and the proposed partial revocation language. No party submitted comments. Accordingly, we find that the domestic industry has expressed no opposition with respect to the proposed revocation, in part, of the *Orders.*

In light of the Alliance's statement of lack of interest in maintaining the *Orders* with respect to the off-grid small portable CSPV panels described by Hello Tech, and in the absence of any other interested party comments addressing the issue of domestic industry support, we preliminarily conclude that producers accounting for substantially all of the production of the domestic like product to which the *Orders* pertain lack interest in the relief provided by the *Orders* with respect to the off-grid small portable CSPV panels that are the subject of Hello Tech's CCR request. Thus, we preliminarily determine that changed circumstances warrant revocation of the *Orders,* in part, with respect to such panels. Accordingly, we are notifying the public of our intent to revoke the *Orders,* in part, with respect to the off-grid small portable CSPV panels described in the ''Scope of the CCRs'' section above.

If we make a final determination to revoke the *Orders* in part, then Commerce will apply this determination to each order as follows. Because we have completed administrative reviews of the *Orders,* the partial revocation will be retroactively applied to unliquidated entries of merchandise subject to the CCRs that were entered or withdrawn from warehouse, for consumption, on or after the day following the last day of the period covered by the most recently completed administrative reviews of the *Orders,* and which are not covered by automatic liquidation.

We will consider comments from interested parties on these preliminary results before issuing the final results of these CCRs.[12]

Public Comment

Interested parties are invited to comment on these preliminary results of CCRs in accordance with 19 CFR 351.309(c)(1)(ii). Written comments may be submitted no later than 14 days after the date of publication of these preliminary results in the **Federal Register**. Rebuttal comments, limited to issues raised in written comments, may be filed no later than seven days after the due date for initial comments.[13] All submissions must be filed electronically using Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS).[14] ACCESS is available to registered users at *https://access.trade.gov.* An electronically filed document must be successfully received in its entirety by ACCESS, by 5 p.m. Eastern Time on the deadlines set forth in this notice. Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.[15]

Final Results of the CCRs

Commerce will issue the final results of these CCRs, which will include its analysis of any written comments, no later than 270 days after the date on which these reviews were initiated.[16] If, in the final results of these reviews, Commerce continues to determine that changed circumstances warrant the revocation of the *Orders,* in part, we will instruct U.S. Customs and Border Protection (CBP) to liquidate without regard to ADs or CVDs, and to refund any estimated ADs and CVDs deposited on all unliquidated entries of the merchandise covered by the revocation that are not covered by the final results of an administrative review or an automatic liquidation instruction to CBP. The current requirement for cash deposits of estimated ADs and CVDs on all entries of subject merchandise will continue unless they are modified pursuant to the final results of these changed CCRs.

These preliminary results of these reviews and this notice are published in accordance with sections 751(b) and 777(i) of the Act and 19 CFR 351.216, 19 CFR 351.221(c)(3), and 19 CFR 351.222.

Dated: February 27, 2023.

Abdelali Elouaradia,

Deputy Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2023–04575 Filed 3–6–23; 8:45 am]

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[10] *Id.; see also Initiation Notice.*

[11] *See Initiation Notice.*

[12] *See, e.g., Aluminum Extrusions from the People's Republic of China: Preliminary Results of Changed Circumstances Reviews, and Intent to Revoke Antidumping and Countervailing Duty Orders in Part,* 78 FR 66895 (November 7, 2013); and 19 CFR 351.222(g)(3)(v).

[13] *See* 19 CFR 351.309(d); *see also Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19; Extension of Effective Period,* 85 FR 41363 (July 10, 2020) (*Temporary Rule*).

[14] *See generally* 19 CFR 351.303.

[15] *See Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19; Extension of Effective Period,* 85 FR 29615 (May 18, 2020); and *Temporary Rule.*

[16] *See* 19 CFR 351.216(e).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–929]

Small Diameter Graphite Electrodes From the People's Republic of China: Preliminary Results of the Antidumping Duty Administrative Review and Rescission of Review, in Part; 2021–2022

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that Fushun Jinly Petrochemical Carbon Co., Ltd. (Fushun Jinly), the sole mandatory respondent in this review and an exporter of small diameter graphite electrodes (SDGE) from the People's Republic of China (China), sold subject merchandise in the United States at prices below normal value (NV) during the period of review (POR) February 1, 2021, through January 31, 2022. Further, we are rescinding the review with respect to all other companies for which a review was initiated for this POR. Interested parties are invited to comment on these preliminary results.

DATES: Applicable March 7, 2023.

FOR FURTHER INFORMATION CONTACT: Samuel Glickstein, 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) 482–5307.

SUPPLEMENTARY INFORMATION:

Background

This administrative review is being conducted in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act). On April 12, 2022, Commerce published the notice of

initiation of this administrative review.[1] The review was initiated with respect to 204 companies.[2] On June 2, 2022, Commerce selected Fushun Jinly as the sole mandatory respondent for this administrative review because Fushun Jinly was the only company under review that submitted a separate rate application or separate rate certification.[3] On June 7, 2022, Commerce issued the antidumping duty questionnaire to Fushun Jinly.

On October 5, 2022, we extended the deadline for the preliminary results of this administrative review from October 31, 2022, until February 14, 2023.[4] On January 11, 2023, we further extended the deadline for the preliminary results of this administrative review until February 28, 2023.[5] For a complete description of the events that followed the initiation of this administrative review, *see* the Preliminary Decision Memorandum.[6]

Scope of the Order [7]

The merchandise covered by the *Order* is small diameter graphite electrodes, which are currently classified under the Harmonized Tariff Schedule of the United States (HTSUS) subheadings 8545.11.0010, 3801.10, and 8545.11.0020. Although the HTSUS subheading and ASTM specification are provided for convenience and for customs purposes, the written description of the subject merchandise is dispositive. For a complete description of the scope of the *Order, see* the Preliminary Decision Memorandum.

Methodology

Commerce is conducting this review in accordance with section 751(a)(1)(B) of the Act and 19 CFR 351.213. We calculated export prices in accordance with section 772 of the Act. Because China is a non-market economy (NME) country within the meaning of section 771(18) of the Act, NV has been calculated in accordance with section 773(c) of the Act.

For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum. A list of the topics included in the Preliminary Decision Memorandum is included in Appendix I to this notice. The Preliminary Decision Memorandum is a public document and is made available to the public via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Partial Rescission of Review

Pursuant to 19 CFR 351.213(d)(1), Commerce will rescind an administrative review, in whole or in part, if a party who requested the review withdraws the request within 90 days of the date of publication of the notice of initiation of the requested review. On June 10, 2022, Tokai Carbon GE LLC and GrafTech International Ltd. (the domestic industry) withdrew its request for review of all companies included in its request, except Fushun Jinly.[8] No other party requested a review of these 203 companies. Accordingly, Commerce is rescinding the administrative review with respect to all companies included in the *Initiation Notice,* except Fushun Jinly.[9] *See* the Preliminary Decision Memorandum for a complete list of these companies.[10]

Separate Rates

Commerce preliminarily finds that the information placed on the record by Fushun Jinly demonstrates that it is eligible for a separate rate. For additional information, *see* the Preliminary Decision Memorandum.

China-Wide Entity

Commerce's policy regarding conditional review of the China-wide entity applies to this administrative review.[11] Under this policy, the China-wide entity will not be under review unless a party specifically requests, or Commerce self-initiates, a review of the entity. Because no party requested a review of the China-wide entity and no review was initiated for this POR, the China-wide entity is not under review, and the China-wide entity's rate (*i.e.,* 159.64 percent) is not subject to change.[12] For additional information, *see* the Preliminary Decision Memorandum.

Preliminary Results of Review

Commerce preliminarily determines that the following weighted-average dumping margin exists for the POR:

Exporter	Weighted-average dumping margin (percent)
Fushun Jinly Petrochemical Carbon Co., Ltd	24.95

Disclosure and Public Comment

Commerce intends to disclose to interested parties the calculations performed for these preliminary results within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

A timeline for the submission of case briefs and written comments will be provided to interested parties at a later date. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than seven days after the deadline date for case briefs.[13] Parties who submit a case brief or a rebuttal brief in this proceeding are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief

[1] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 87 FR 21619 (April 12, 2022) (*Initiation Notice*).

[2] *Id.* at 21638 (''Where interested parties requested review of a company name combined with an alternative name (*i.e.,* an a.k.a. name that is not an abbreviation) or a former company name, Commerce treated the different versions of the company name separately for review initiation purposes.'').

[3] *See* Memorandum, ''Respondent Selection,'' dated June 2, 2022.

[4] *See* Memorandum, ''Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review,'' dated October 5, 2022.

[5] *See* Memorandum, ''Second Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review,'' dated January 11, 2023.

[6] *See* Memorandum, ''Decision Memorandum for the Preliminary Results of Antidumping Duty Administrative Review: Small Diameter Graphite Electrodes from the People's Republic of China; 2021–2022,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[7] *See Antidumping Duty Order: Small Diameter Graphite Electrodes from the People's Republic of China,* 74 FR 8775 (February 20, 2009) (*Order*); and *Small Diameter Graphite Electrodes from the People's Republic of China: Continuation of Antidumping Duty Order,* 85 FR 19134 (April 26, 2020).

[8] *See* Domestic Industry's Letter, ''Partial Withdrawal of Request for 2021–2022 Antidumping Administrative Review,'' dated June 10, 2022.

[9] *See* 19 CFR 351.213(d)(1).

[10] We note that Beijing Fangda Carbon Tech Co., Ltd., Chengdu Rongguang Carbon Co., Ltd., Fangda Carbon New Material Co., Ltd., Fushun Carbon Co., Ltd., and Hefei Carbon Co., Ltd. comprise a single entity: The Fangda Group. These five companies are listed as a single entity in the Preliminary Decision Memorandum.

[11] *See Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings,* 78 FR 65963 (November 4, 2013).

[12] *See Small Diameter Graphite Electrodes from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2015–2016,* 82 FR 10876, 10877 (February 16, 2017).

[13] *See* 19 CFR 351.309(d); *see* also *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19,* 85 FR 17006, 17007 (March 26, 2020) (''To provide adequate time for release of case briefs via ACCESS, E&C intends to schedule the due date for all rebuttal briefs to be 7 days after case briefs are filed (while these modifications remain in effect.'')).

summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance within 30 days of the date of publication of this notice. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; (3) whether any participant is a foreign national; and (4) a list of issues parties intend to discuss. Issues raised in the hearing will be limited to those raised in the respective case and rebuttal briefs.[14] If a request for a hearing is made, Commerce will announce the date and time of the hearing.

All submissions to Commerce must be filed electronically using Enforcement and Compliance's electronic records system, ACCESS,[15] and must also be served on interested parties.[16] An electronically filed document must be received successfully in its entirety by ACCESS, by 5 p.m. Eastern Time (ET) on the date that the document is due. Note that Commerce has modified certain of its requirements for serving documents containing business proprietary information, until further notice.[17]

Unless otherwise extended, we intend to issue the final results of this administrative review, which will include the results of its analysis of issues raised in any briefs, within 120 days of publication of these preliminary results in the **Federal Register**, pursuant to section 751(a)(3)(A) of the Act.

Verification

As provided in section 782(i)(3) of the Act, Commerce intends to verify the information relied upon for its final results.

Assessment Rates

In accordance with section 751(a)(2)(C) of the Act, the final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by this review. Upon issuance of the final results, Commerce will determine, and CBP shall assess, antidumping duties on all appropriate entries covered by this review.[18] Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the publication of the final results of this review. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

Upon issuance of the final results, Commerce will determine, and CBP shall assess, antidumping duties on all appropriate entries covered by this review, in accordance with 19 CFR 351.212(b). If Fushun Jinly's *ad valorem* weighted-average dumping margin is not zero or *de minimis* (*i.e.,* less than 0.50 percent) in the final results of this review, Commerce will calculate importer-specific assessment rates for that respondent, in accordance with 19 CFR 351.212(b)(1).[19] Because Fushun Jinly did not report entered value, we will calculate importer-specific per-unit duty assessment rates based on the ratio of the total amount of antidumping duties calculated for the examined sales to the total quantity of those sales. To determine whether an importer-specific, per-unit assessment rate is *de minimis,* in accordance with 19 CFR 351.106(c)(2), we also will calculate an importer-specific *ad valorem* ratio based on estimated entered values.

If, in the final results, Fushun Jinly's weighted-average dumping margin is zero or *de minimis* (*i.e.,* less than 0.5 percent), Commerce will instruct CBP to liquidate the appropriate entries for that respondent without regard to antidumping duties.[20] For entries that were not reported in the U.S. sales database submitted by Fushun Jinly during this review, Commerce will instruct CBP to liquidate such entries at the antidumping duty assessment rate for the China-wide entity (*i.e.,* 159.64 percent).[21]

For the companies for which we have rescinded this review, Commerce intends to instruct CBP to assess antidumping duties on all appropriate entries at a rate equal to the cash deposit rate of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, during February 1, 2021, through January 31, 2022, in accordance with 19 CFR 351.212(c)(1)(i). Commerce intends to issue appropriate assessment instructions to CBP for the rescinded companies no earlier than 35 days after the date of publication of the preliminary results of this administrative review in the **Federal Register**.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for shipments of the subject merchandise from China entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) for Fushun Jinly, the cash deposit rate will be equal to the weighted-average dumping margin established in the final results of this review (except, if the rate is *de minimis,* then the cash deposit rate will be zero); (2) for previously examined Chinese and non-Chinese exporters not listed above that received a separate rate in a prior completed segment of this proceeding, the cash deposit rate will continue to be the existing exporter-specific cash deposit rate; (3) for all Chinese exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be the rate for the China-wide entity (*i.e.,* 159.64 percent); and (4) for all non-Chinese exporters of subject merchandise which have not received their own separate rate, the cash deposit rate will be the rate applicable to the Chinese exporter that supplied that non-Chinese exporter. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification to Interested Parties

This administrative review and notice are issued and published in accordance with sections 751(a)(l) and 777(i)(l) of the Act, 19 CFR 351.213, and 19 CFR 351.221(b)(4).

[14] *See* 19 CFR 351.310(c).

[15] *See* 19 CFR 351.303.

[16] *See* 19 CFR 351.303(f).

[17] *See Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19; Extension of Effective Period,* 85 FR 41363 (July 10, 2020).

[18] *See* 19 CFR 351.212(b)(1).

[19] In these preliminary results, Commerce applied the assessment rate calculation method adopted in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification,* 77 FR 8101 (February 14, 2012).

[20] *See* 19 CFR 351.106(c)(2).

[21] *See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694 at 65694–65695, for a full discussion of this practice.

Dated: February 28, 2023.

Abdelali Elouaradia,

Deputy Assistant Secretary for Enforcement and Compliance.

Appendix I

List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Period of Review
IV. Scope of the *Order*
V. Selection of Respondent
VI. Partial Rescission of Review
VII. Discussion of the Methodology
VIII. Recommendation

[FR Doc. 2023–04570 Filed 3–6–23; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–475–828; A–557–809; A–565–801]

Stainless Steel Butt-Weld Pipe Fittings From Italy, Malaysia, and the Philippines: Final Results of the Expedited Fourth Sunset Review 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 Department of Commerce (Commerce) finds that revocation of the antidumping (AD) duty orders on stainless steel butt-weld pipe fittings from Italy, Malaysia, and the Philippines would be likely to lead to continuation or recurrence of dumping at the levels indicated in the ''Final Results of Sunset Review'' section of this notice.

DATES: Applicable March 7, 2023.

FOR FURTHER INFORMATION CONTACT: Emily Bradshaw, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; (202) 482–4732 respectively.

SUPPLEMENTARY INFORMATION:

Background

On November 1, 2022, Commerce published the notice of initiation of the fourth sunset reviews of the *Orders*,[1] pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act).[2] After the date of publication of the *Initiation Notice,* Commerce received a notice of intent to participate from Core Pipe Products, Inc.[3] within the deadline specified in 19 CFR 351.218(d)(1)(i). Core Pipe Products, Inc. (the domestic interested party) claimed interested party status under section 771(9)(C) of the Act as a domestic producer engaged in the production in the United States of stainless steel butt-weld pipe fittings.

Commerce received a substantive response from the domestic interested party within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i).[4] We did not receive a substantive response from any other interested party in these proceedings, and no party requested a hearing.

On December 20, 2022, Commerce notified the U.S. International Trade Commission that it did not receive an adequate substantive response from respondent interested parties.[5] As a result, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), Commerce conducted expedited (120-day) sunset reviews of these *Orders.*

Scope of the Orders

The products covered by these *Orders* are stainless steel butt-weld pipe fittings. For a complete description of the scope of these orders, *see* the Issues and Decision Memorandum.[6]

Analysis of Comments Received

All issues raised in these sunset reviews are addressed in the Issues and Decision Memorandum, including the likelihood of continuation or recurrence of dumping and the magnitude of the margins of dumping likely to prevail if the *Orders* were revoked.[7] 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 Services 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 Sunset Reviews

Pursuant to sections 751(c)(1) and 752(b) 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 of dumping likely to prevail would be weighted-average margins of up to the following percentages:

Country	Weighted-average dumping margin (percent)
Italy	26.59
Malaysia	7.51
Philippines	33.81

Administrative Protective Order

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a). Timely written notification of the 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 this notice in accordance with sections 751(c), 752(b), and 777(i)(1) of the Act.

Dated: March 1, 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
  1. Likelihood of Continuation or Recurrence of Dumping
  2. Magnitude of Dumping Margin Likely To Prevail

[1] *See Antidumping Duty Orders: Stainless Steel Butt-Weld Pipe Fittings from Italy, Malaysia, and the Philippines,* 66 FR 11257 (February 23, 2001) (collectively, *Orders*).

[2] *See Initiation of Five-Year (Sunset) Review,* 87 FR 65746 (November 1, 2022) (*Initiation Notice*).

[3] *See* Domestic Interested Party's Letter, ''Notice of Intent To Participate,'' dated November 16, 2022.

[4] *See* Domestic Interested Party's Letters, ''Stainless Steel Butt-Weld Pipe Fittings From Italy—Domestic Interested Party's Substantive Response to Notice of Initiation'' dated December 1, 2022 (Italy Substantive Response); ''Stainless Steel Butt-Weld Pipe Fittings From Malaysia—Domestic Interested Party's Substantive Response to Notice of Initiation'' dated December 1, 2022 (Malaysia Substantive Response); ''Stainless Steel Butt-Weld Pipe Fittings From the Philippines—Domestic Interested Party's Substantive Response to Notice of Initiation,'' dated December 1, 2022 (Philippines Substantive Response) (collectively, Substantive Response).

[5] *See* Commerce's Letter, ''Sunset Reviews Initiated on November 1, 2022,'' dated December 20, 2022.

[6] *See* Memorandum, ''Issues and Decision Memorandum for the Expedited Sunset Review of the Antidumping Duty Orders on Stainless Steel Butt-Weld Pipe Fittings from Italy, Malaysia and the Philippines,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[7] *Id.*

VII. Recommendation

[FR Doc. 2023–04663 Filed 3–6–23; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–549–822]

Certain Frozen Warmwater Shrimp From Thailand: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review; 2021–2022

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that Thai Union Group Public Co., Ltd./Thai Union Seafood Co., Ltd./Pakfood Public Company Limited/Asia Pacific (Thailand) Co., Ltd./Chaophraya Cold Storage Co., Ltd./Okeanos Co., Ltd./Okeanos Food Co., Ltd./Takzin Samut Co., Ltd. (collectively, Thai Union), a producer and exporter subject to this administrative review, did not make sales of subject merchandise at less than normal value during the period of review (POR) February 1, 2021, through January 31, 2022. Additionally, based on timely withdrawal of requests for review, we are rescinding this administrative review with respect to all other companies for which we initiated an administrative review. Interested parties are invited to comment on these preliminary results.

DATES: Applicable March 7, 2023.

FOR FURTHER INFORMATION CONTACT: Benjamin A. Luberda or Ann Marie Caton, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–2185 or (202) 482–2607, respectively.

SUPPLEMENTARY INFORMATION:

Background

On April 12, 2022, based on timely requests for review, in accordance with 19 CFR 351.221(c)(1)(i), we initiated an administrative review of the antidumping duty order [1] on certain frozen warmwater shrimp (shrimp) from Thailand.[2] On June 6, 2022, Commerce selected two mandatory respondents for individual examination: (1) Kongphop Frozen Food Co., Ltd.; and (2) Thai Union.[3] On July 7, 2022, the Ad Hoc Shrimp Trade Action Committee (AHSTAC); the American Shrimp Processors Association (ASPA); and Thai Royal Frozen Food Co., Ltd. (Thai Royal) withdrew their requests for an administrative review with respect to every company except Thai Union.[4]

On October 3, 2022, Commerce extended the preliminary results of this review by 120 days, until February 28, 2023.[5] For a complete description of the events that followed the initiation of this review, *see* the Preliminary Decision Memorandum.[6] A list of topics discussed in the Preliminary Decision Memorandum is included at Appendix I to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *https://access.trade/gov/public/FRNoticesListLayout.aspx.*

Partial Rescission

Pursuant to 19 CFR 351.213(d)(1), Commerce will rescind an administrative review, in whole or in part, if a party who requested the review withdraws the request within 90 days of the date of publication of notice of initiation of the requested review. AHSTAC, ASPA, and Thai Royal timely withdrew their requests for an administrative review with respect to each company listed in the *Initiation Notice,* other than Thai Union. No other party requested a review of these companies. Accordingly, we are rescinding this review, in part, with respect to these companies, pursuant to 19 CFR 351.213(d)(1). The producers and/or exporters for which we are rescinding the administrative review are listed at Appendix II of this notice.

Scope of the Order

The merchandise subject to the *Order* is certain warmwater shrimp and prawns, whether frozen, wild-caught (ocean harvested) or farm-raised (produced by aquaculture), head-on or head-off, shell-on or peeled, tail-on or tail-off, deveined or not deveined, cooked or raw, or otherwise processed in frozen form. The frozen warmwater shrimp and prawn products included in the scope of this order, regardless of definitions in the Harmonized Tariff Schedule of the United States (HTSUS), are products which are processed from warmwater shrimp and prawns through freezing and which are sold in any count size. The products subject to the *Order* are currently classifiable in HTSUS subheadings 0306.17.0004, 0306.17.0005, 0306.17.0007, 0306.17.0008, 0307.17.0010. 0306.17.0011, 0306.17.0013, 0306.17.0014, 0306.17.0016, 0306.17.0017. 0306.17.0019, 0306.17.0020, 0306.17.0022, 0306.17.0023, 0306.17.0025, 0306.17.0026, 0306.17.0028, and 0306.17.0029. Although the HTSUS numbers are provided for convenience and for customs purposes, the written product description remains dispositive.[7]

[1] *See Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Frozen Warmwater Shrimp from Thailand,* 70 FR 5145 (February 1, 2005) (*Order*).

[2] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 87 FR 21619 (April 12, 2022) (*Initiation Notice*).

[3] *See* Memorandum, ''Selection of Respondents for Individual Review,'' dated June 6, 2022. In the 2012–2013 administrative review, Commerce found that the following companies composed a single entity: Thai Union Frozen Products Public Co. Ltd.; Thai Union Seafood Co., Ltd.; Pakfood Public Company Limited; Asia Pacific (Thailand) Co., Ltd.; Chaophraya Cold Storage Co., Ltd.; Okeanos Co., Ltd.; Okeanos Food Co., Ltd.; Takzin Samut Co., Ltd. *See Certain Frozen Warmwater Shrimp from Thailand: Final Results of Antidumping Duty Administrative Review, Final Determination of No Shipments, and Partial Rescission of Review; 2012–2013,* 79 FR 51306, 51306 (August 28, 2014). Further, on January 5, 2016, Commerce found that Thai Union Group Public Co., Ltd. is the successor-in-interest to Thai Union Frozen Products Public Co., Ltd. *See Notice of Final Results of Antidumping Changes Circumstances Review: Certain Frozen Warmwater Shrimp from Thailand,* 81 FR 222 (January 5, 2016). Therefore, absent information to the contrary, we are treating these companies as a single entity for the purposes of this administrative review.

[4] *See* ASPA's Letter, ''Certain Frozen Warmwater Shrimp from Thailand: American Shrimp Processors Associations' Partial Withdrawal of Review Requests,'' dated July 6, 2022; and AHSTAC's Letter, ''Certain Frozen Warmwater Shrimp from Thailand: Domestic Producers' Partial Withdrawal of Review Requests,'' dated July 5, 2022; *see also* Thai Royal's Letter, ''Frozen Warmwater Shrimp from Thailand: Withdrawal of Request for Administrative Review,'' dated July 5, 2022.

[5] *See* Memorandum, ''Extension of Deadline for Preliminary Results of 2021–2022 Antidumping Duty Administrative Review,'' dated October 3, 2022.

[6] *See* Memorandum, ''Decision Memorandum for the Preliminary Results of the 2021–2022 Administrative Review of the Antidumping Duty Order on Circular Frozen Warmwater Shrimp from Thailand,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[7] For a complete description of the scope of the *Order, see* Preliminary Decision Memorandum at 4–5.

Methodology

Commerce is conducting this review in accordance with sections 751(a)(1)(B) and (2) of the Tariff Act of 1930, as amended (the Act). Export price and constructed export price are calculated in accordance with section 772 of the Act. Normal value is calculated in accordance with section 773 of the Act.

For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum.

Preliminary Results of the Review

We preliminarily determine that the following weighted-average dumping margin exists for Thai Union for the period February 1, 2021, through January 31, 2022:

Exporter/producer	Weighted-average dumping margin (percent)
Thai Union Group Public Co., Ltd./Thai Union Seafood Co., Ltd./Pakfood Public Company Limited/Asia Pacific (Thailand) Co., Ltd./Chaophraya Cold Storage Co., Ltd./Okeanos Co., Ltd./Okeanos Food Co., Ltd./Takzin Samut Co., Ltd	0.00

Disclosure and Public Comment

Commerce intends to disclose the calculations performed in connection with these preliminary results to interested parties within five days after the date of publication of this notice.[8] Case briefs or other written comments may be submitted to Commerce no later than 30 days after the date of publication of this notice.[9] Rebuttal briefs, limited to issues raised in the case briefs, may be filed no later than seven days after the time limit for filing case briefs.[10] Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.[11] Case and rebuttal briefs should be filed using ACCESS.[12] Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information.[13]

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, filed electronically via ACCESS within 30 days after the date of publication of this notice.[14] Hearing requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to issues raised in the briefs. If a request for a hearing is made, Commerce intends to hold the hearing at a date and time to be determined.[15] Parties should confirm by telephone the date and time of the hearing two days before the scheduled date. An electronically filed document must be received successfully in its entirety by ACCESS by 5:00 p.m. Eastern Time on the established deadline.

Commerce intends to issue the final results of this administrative review, including the results of its analysis of issues raised in any written briefs, not later than 120 days after the date of publication of this notice, unless otherwise extended.[16]

Assessment Rates

Upon completion of the administrative review, Commerce shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries.[17] If the weighted average dumping margin for Thai Union is not zero or *de minimis* (*i.e.,* less than 0.5 percent), we will calculate importer-specific *ad valorem* antidumping duty assessment rates based on the ratio of the total amount of dumping calculated for each importer's examined sales to the total entered value of those same sales in accordance with 19 CFR 351.212(b)(1). Where the respondent did not report entered value, we will calculate the entered value in order to calculate the assessment rate. If the weighted-average dumping margin for the respondents listed above is zero or *de minimis* in the final results, or an importer-specific assessment rate is zero or *de minimis* in the final results, we will instruct CBP not to assess antidumping duties on any of their entries in accordance with the *Final Modification for Reviews*.[18]

Commerce's ''automatic assessment'' will apply to entries of subject merchandise during the POR produced by Thai Union for which it did not know that the merchandise it sold to an intermediary (*e.g.,* a reseller, trading company, or exporter) was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.[19]

Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

Cash Deposit Requirements

The following deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) the cash deposit rate for Thai Union will be equal to the weighted-average dumping margin established in the final results of this review, except if the rate is less than 0.50 percent and, therefore, *de minimis* within the meaning of 19 CFR 351.106(c)(1), in which case the cash deposit rate will be zero; (2) for previously reviewed or investigated companies not participating in this review, the cash deposit rate will continue to be the company-specific rate published for the most recently-completed segment of this proceeding in which the company was reviewed; (3) if the exporter is not a firm covered in this review or previous segment, but the producer is, then the cash deposit rate will be the rate established for the most recently-completed segment for the producer of the merchandise; and (4) the cash deposit rate for all other producers or exporters will continue to

[8] *See* 19 CFR 351.224(b).

[9] *See* 19 CFR 351.309(c).

[10] Commerce is exercising its discretion, under 19 CFR 351.309(d)(1), to alter the time limit for filing of rebuttal briefs.

[11] *See* 19 CFR 351.309(c)(2) and (d)(2).

[12] *See* 19 CFR 351.303.

[13] *See Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19; Extension of Effective Period,* 85 FR 41363 (July 10, 2020).

[14] *See* 19 CFR 351.310(c).

[15] *See* 19 CFR 351.310(d).

[16] *See* section 751(a)(3)(A) of the Act.

[17] *See* 19 CFR 351.212(b).

[18] *See Antidumping Proceedings: Calculation of the Weighted Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification,* 77 FR 8101, 8102 (February 14, 2012) (*Final Modification for Reviews*).

[19] For a full discussion of this practice, *see Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

be 5.34 percent, the all-others rate made effective by the *Section 129 Determination*.[20] These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification to Interested Parties

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.221(b)(4).

Dated: February 28, 2023.

Ryan Majerus,

Deputy Assistant Secretary for Policy and Negotiations.

Appendix I

List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Scope of the *Order*
IV. Partial Rescission of Administrative Review
V. Discussion of the Methodology
VI. Currency Conversion
VII. Recommendation

Appendix II

List of Companies for Which the Administrative Review Has Been Rescinded

A. Wattanachai Frozen Products Co., Ltd.
A.P. Frozen Foods Co., Ltd.
A.S. Intermarine Foods Co., Ltd.
Ampai Frozen Food Co., Ltd.
Anglo-Siam Seafoods Co., Ltd.
Apitoon Enterprise Industry Co., Ltd.
Asian Alliance International Co., Ltd.
Asian Sea Corporation Public Company Limited
Asian Seafoods Coldstorage PLC
Asian Seafoods Coldstorage Public Co., Ltd. (A.K.A. Asian Seafoods Coldstorage (Suratthani) Co.)
Asian Seafoods Coldstorage Public Company Limited
Asian Star Trading Co., Ltd.
B.S.A. Food Products Co., Ltd.
Bright Sea Co., Ltd./The Union Frozen Products Co., Ltd.
C N Import Export Co., Ltd.
C.K. Frozen Fish and Food Co., Ltd.
C.P. Intertrade Co. Ltd.
Chaivaree Marine Products Co., Ltd.
Chanthaburi Frozen Food Co., Ltd.
Chanthaburi Seafoods Co., Ltd.
Charoen Pokphand Foods Public Company Limited/CP Merchandising Co., Ltd.
Chonburi LC
Commonwealth Trading Co., Ltd.
CPF Food Products Co., Ltd.
Crystal Frozen Foods Co., Ltd.
Daedong (Thailand) Co., Ltd.
Daiei Taigen (Thailand) Co., Ltd.
Daiho (Thailand) Co., Ltd.
Earth Food Manufacturing Co., Ltd.
F.A.I.T. Corporation Limited
Far East Cold Storage Co., Ltd.
Findus (Thailand) Ltd.
Fortune Frozen Foods (Thailand) Co., Ltd.
Gallant Ocean (Thailand) Co., Ltd.
Golden Seafood International Co., Ltd.
Good Fortune Cold Storage Ltd.
Good Luck Product Co., Ltd.
Grobest Frozen Foods Co., Ltd.
Haitai Seafood Co., Ltd.
Handy International (Thailand) Co., Ltd.
Heritrade Co., Ltd. (AKA Heritrade)
HIC (Thailand) Co., Ltd.
I.T. Foods Industries Co., Ltd.
Inter-Oceanic Resources Co., Ltd.
Inter-Pacific Marine Products Co., Ltd.
K & U Enterprise Co., Ltd.
Kiang Huat Sea Gull Trading Frozen Food Public Co., Ltd.
Kingfisher Holdings Ltd./KF Foods Limited
Kitchens of the Ocean (Thailand) Ltd.
Kongphop Frozen Foods Co., Ltd.
Kyokuyo Global Seafoods Co., Ltd.
Lee Heng Seafood Co., Ltd.
Li-Thai Frozen Foods Co., Ltd.
Lucky Union Foods Co., Ltd.
Mahachai Food Processing Co., Ltd.
Marine Gold Products Ltd.
May Ao Foods Co., Ltd./A Foods 1991 Co., Limited
Merkur Co., Ltd.
N&N Foods Co., Ltd.
N.R. Instant Produce Co., Ltd.
Narong Seafood Co., Ltd.
Nongmon SMJ Products
Pacific Fish Processing Co., Ltd.
Penta Impex Co., Ltd.
Phatthana Frozen Food Co., Ltd.
Phatthana Seafood Co., Ltd.
Premier Frozen Products Co., Ltd.
Royal Andaman Seafood Co., Ltd.
S&D Marine Products Co., Ltd.
S. Chaivaree Cold Storage Co., Ltd.
S. Khonkaen Food Industry Public Co., Ltd.
S.K. Foods (Thailand) Public Co. Limited
S2K Marine Product Co., Ltd.
Sea Bonanza Food Co., Ltd.
Sea Wealth Frozen Food Co., Ltd.
Seafresh Industry Public Co., Ltd./Seafresh Fisheries
SEAPAC
Sea-Tech Intertrade Co., Ltd.
Sethachon Co., Ltd.
Shianlin Bangkok Co., Ltd.
Shing Fu Seaproducts Development Co.
Siam Food Supply Co., Ltd.
Siam Intersea Co., Ltd.
Siam Marine Products Co., Ltd.
Siam Ocean Frozen Foods Co., Ltd.
Siam Union Frozen Foods (A.K.A. The Siam Union Frozen Foods Co., Ltd.)
Siamchai International Food Co., Ltd.
Smile Heart Foods (A.K.A. Smile Heart Foods Co. Ltd.)
SMP Food Product Co., Ltd.
Songkla Canning Public Co., Ltd.
Southeast Asian Packaging and Canning Ltd.
Southport Seafood (A.K.A. Southport Seafood Co., Ltd.)
Starfoods Industries Co., Ltd.
STC Foodpak Ltd.
Suntechthai Intertrading Co., Ltd.
Surapon Foods Public Co. Ltd/Surat Seafoods Public Co., Ltd.
Surapon Nichirei Foods Co., Ltd.
Tep Kinsho Foods Co., Ltd.
Tey Seng Cold Storage Co., Ltd./Chaiwarut Co., Ltd.
Thai Agri Foods Public Co., Ltd.
Thai I-Mei Frozen Foods Co., Ltd.
Thai Ocean Venture Co., Ltd.
Thai Royal Frozen Food Co., Ltd.
Thai Spring Fish Co., Ltd.
Thai Union Manufacturing Company Limited
Top Product Food Co., Ltd.
Trang Seafood Products Public Co., Ltd.
Unicord Public Co., Ltd.
Xian-Ning Seafood Co., Ltd.
Yeenin Frozen Foods Co., Ltd.

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[20] *See Implementation of the Findings of the WTO Panel in United States Antidumping Measure on Shrimp from Thailand: Notice of Determination Under Section 129 of the Uruguay Round Agreements Act and Partial Revocation of the Antidumping Duty Order on Frozen Warmwater Shrimp from Thailand,* 74 FR 5638 (January 30, 2009) (*Section 129 Determination*).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–117]

Wood Mouldings and Millwork Products From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review, Preliminary Determination of No Shipments, and Rescission in Part; 2020–2022

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that Fujian Yinfeng Imp & Exp Trading Co., Ltd./Fujian Province Youxi City Mangrove Wood Machining Co., Ltd. (Yinfeng/Mangrove), and 29 non-individually examined exporters of wood mouldings and millwork products (WMMP) from the People's Republic of China (China) sold subject merchandise to the United States at prices below normal value (NV) during the period of review (POR), August 12, 2020, through January 31, 2022. Commerce also preliminarily determines that Fujian Jinquan Trade Co., Ltd./Baiyuan Wood Machining Co., Ltd. (Jinquan/Baiyuan) did not sell subject merchandise to the United States at prices below NV during the POR. We further preliminarily find that Fujian Shunchang Shengsheng

Wood Industry Limited Company (Shunchang Shengsheng), Xiamen Jinxi Building Material Co., Ltd. (Xiamen Jinxi), and Zhangzhou Green Wood Industry and Trade Co., Ltd. (Green Wood) had no shipments of subject merchandise during the POR and that Gaomi Hongtai Home Furniture Co., Ltd. is part of the China-wide entity. Additionally, we are rescinding this administrative review with respect to 33 companies because the requests for review of these companies were timely withdrawn. Finally, we preliminarily intend to rescind this administrative review with respect to three companies.

DATES: Applicable March 7, 2023.

FOR FURTHER INFORMATION CONTACT: Brian Smith or Samantha Kinney, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–1766 and (202) 482–2285, respectively.

SUPPLEMENTARY INFORMATION:

Background

This administrative review is being conducted in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act). The review covers 73 companies, including mandatory respondents Jinquan/Baiyuan and Yinfeng/Mangrove.[1] For a complete description of the events that followed the initiation of this administrative review, *see* the Preliminary Decision Memorandum. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.* A list of topics discussed in the Preliminary Decision Memorandum is included as Appendix I to this notice.

[1] We have determined that it is appropriate to treat affiliates Yinfeng and Mangrove, and affiliates Jinquan and Baiyan, as a single entity for purposes of this administrative review. For further discussion, *see* Memorandum, ''Wood Mouldings and Millwork Products from the People's Republic of China: Preliminary Results of Antidumping Administrative Review; 2020–2022,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

Scope of the Order [2]

The merchandise covered by the *Order* is wood mouldings and millwork products, which are primarily classifiable under subheadings 4409.10.0500, 4409.10.1020, 4409.10.1040, 4409.10.1060, 4409.10.1080, 4409.10.4010, 4409.10.4090, 4409.10.4500, 4409.10.5000, 4409.10.9020, 4409.10.9040, 4409.22.0590, 4409.22.1000, 4409.22.4000, 4409.22.5000, 4409.22.5020, 4409.22.5040, 4409.22.5060, 4409.22.5090, 4409.22.9000, 4409.22.9020, 4409.22.9030, 4409.22.9045, 4409.22.9060, 4409.22.9090, 4409.29.0665, 4409.29.1100, 4409.29.4100, 4409.29.5100, 4409.29.9100, 4412.99.5115, 4412.99.9500, 4418.91.9095, and 4421.91.9780 of the of the Harmonized Tariff Schedule of the United States (HTSUS). WMMP may also enter under HTSUS numbers 4409.10.6000, 4409.10.6500, 4409.22.6000, 4409.22.6500, 4409.29.6100, 4409.29.6600, 4412.41.0000, 4412.42.0000, 4412.49.0000, 4412.91.5115, 4412.92.5215, 4412.99.9700, 4418.20.4000, 4418.20.8030, 4418.20.8060, 4418.91.9195, 4418.99.9095, 4418.99.9195, 4421.91.9880, 4421.99.9780, and 4421.99.9880. While the HTSUS subheading and ASTM specification are provided for convenience and for customs purposes, the written description of the subject merchandise is dispositive. For a complete description of the scope of the *Order, see* the Preliminary Decision Memorandum.

Methodology

Commerce is conducting this review in accordance with section 751(a)(1)(B) of the Act and 19 CFR 351.213. We calculated export prices in accordance with section 772 of the Act. Because China is a non-market economy (NME) country within the meaning of section 771(18) of the Act, NV has been calculated in accordance with section 773(c) of the Act. For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum.

Partial Rescission of Review

Pursuant to 19 CFR 351.213(d)(1), Commerce will rescind an administrative review, in whole or in part, if a party who requested the review withdraws the request within 90 days of the date of publication of the notice of initiation of the requested review. On July 11, 2022, Sanming Lingtong Trading Co., Ltd. (Sanming) timely withdrew its request for review of itself and the petitioner timely withdrew its requests for review of 58 companies.[3] Because no other parties requested a review of Sanming or 32 of the companies listed in the petitioner's withdrawal of review request, Commerce is rescinding the administrative review with respect to these companies.[4] *See* the Preliminary Decision Memorandum for further discussion.

Preliminary Intent To Rescind Administrative Review, in Part

We preliminary determine that China Cornici Co., Ltd. (China Cornici) had no suspended entries of subject merchandise during the POR. Absent any evidence of a reviewable entry, pursuant to 19 CFR 351.213(d)(3), we intend to rescind the administrative review of this company in the final results of review. We also intend to rescind this review with respect two companies, Aventra and TL Wood, because the record evidence indicates that they are U.S. resellers not eligible for review pursuant to 19 CFR 351.213(b)(1). For further information, see ''Preliminary Intent to Rescind Administrative Review, in Part'' in the Preliminary Decision Memorandum.

Preliminary Determination of No Shipments

Based on an analysis of information from U.S. Customs and Border Protection (CBP), no-shipment certifications and other record information, we preliminarily determine that Shunchang Shengsheng, Xiamen Jinxi, and Green Wood had no shipments of subject merchandise during the POR.[5] Consistent with our practice in NME cases, we will not rescind the review with respect to these companies, but, rather, we intend to complete the review and issue appropriate instructions to CBP based on the final results of the review.[6]

[2] *See Wood Mouldings and Millwork Products from the People's Republic of China: Amended Final Antidumping Duty Determination and Antidumping Duty Order,* 86 FR 9486 (February 16, 2021) (*Order*).

[3] *See* Sanming's Letter, ''Withdrawal of Request for Administrative Review and Request for Extension of Time to File Request,'' dated July 11, 2022; *see also* Petitioner's Letter, ''Withdrawal of Request for Administrative Review,'' dated July 11, 2022.

[4] *See* Appendix III.

[5] *See* the Preliminary Decision Memorandum for further discussion.

[6] *See, e.g., Certain Frozen Warmwater Shrimp from Thailand; Preliminary Results of Antidumping Duty Administrative Review, Partial Rescission of*

Separate Rates

Commerce preliminarily finds that, in addition to Yinfeng/Mangrove and Jinquan/Baiyuan, the information placed on the record by 29 companies not individually examined in this review demonstrates that these companies are eligible for a separate rate.[7] The statute and Commerce's regulations do not address what dumping margin to apply to respondents not selected for individual examination when Commerce limits its examination in an administrative review pursuant to section 777A(c)(2) of the Act. Generally, Commerce looks to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in an investigation, for guidance when calculating the dumping margin for respondents that are not selected for individual examination in an administrative review. Section 735(c)(5)(A) of the Act states that the all-others rate should be calculated by averaging the weighted-average dumping margins calculated for individually-examined respondents, excluding dumping margins that are zero, *de minimis,* or based entirely on facts available. Because we calculated a preliminary dumping margin of zero for Jinquan/Baiyuan, and a preliminary dumping margin that is not zero, *de minimis,* or based entirely on facts available for Yinfeng/Mangrove, we assigned the separate rate recipients a dumping margin equal to Yinfeng/Mangrove's preliminary dumping margin consistent with Commerce's practice and section 735(c)(5)(A) of the Act.

The China-Wide Entity

Commerce's policy regarding conditional review of the China-wide entity applies to this administrative review.[8] Under this policy, the China-wide entity will not be under review unless a party specifically requests and Commerce initiates, or Commerce self-initiates, a review of the China-wide entity.[9] Because no party requested a review of the China-wide entity and no review was initiated for this POR, the China-wide entity is not under review and the China-wide entity's rate (*i.e.,* 220.87 percent) is not subject to change.[10]

Commerce preliminarily finds that Gaomi Hongtai Home Furniture Co., Ltd. did not establish its eligibility for a separate rate because it failed to provide a separate rate application or a separate rate certification. As such, we preliminarily determine that this company is part of the China-wide entity.

Preliminary Results of Review

Commerce preliminarily determines that the following weighted-average dumping margins exist for the POR:

Exporter	Weighted-average dumping margin (percent)
Fujian Jinquan Trade Co., Ltd./Baiyuan Wood Machining Co., Ltd	0.00
Fuijian Yinfeng Imp & Exp Trading Co., Ltd./Fujian Province Youxi City Mangrove Wood Machining Co., Ltd	9.03
Non-Selected Companies Under Review Receiving a Separate Rate[11]	9.03

Disclosure and Public Comment

Commerce intends to disclose the calculations performed for these preliminary results to the parties under administrative protective order within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

A schedule for the submission of case briefs and written comments will be provided to interested parties at a later date. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than seven days after the deadline date for case briefs.[12] Parties who submit a case brief or a rebuttal brief in this proceeding are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance within 30 days of the date of publication of this notice. Requests should contain: (1) the party's name, address and telephone number; (2) the number of participants; (3) whether any participant is a foreign national; and (4) a list of issues parties intend to discuss. Issues raised in the hearing will be limited to those raised in the respective case and rebuttal briefs.[13] If a request for a hearing is made, Commerce will announce the date and time of the hearing.

Commerce intends to issue the final results of this administrative review, which will include the results of its analysis of issues raised in any briefs, within 120 days of the date of publication of these preliminary results, pursuant to section 751(a)(3)(A) of the Act and 19 CFR 351.213(h), unless this deadline is extended.

Verification

As provided in section 782(i)(3) of the Act, Commerce intends to verify the information relied upon for its final results.

Assessment Rates

In accordance with section 751(a)(2)(C) of the Act, the final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by this review. Upon issuance of the final results, Commerce will determine, and CBP shall assess, antidumping duties on all appropriate entries covered by this review.[14] Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this

Review, Preliminary Determination of No Shipments; 2012–2013, 79 FR 15951, 15952 (March 24, 2014), unchanged in *Certain Frozen Warmwater Shrimp from Thailand: Final Results of Antidumping Duty Administrative Review, Final Determination of No Shipments, and Partial Rescission of Review; 2012–2013,* 79 FR at 51306 (August 28, 2014).

[7] *See* Appendix II for a list of these companies.

[8] *See Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings,* 78 FR 65963 (November 4, 2013).

[9] *Id.*

[10] *See Order,* 86 FR 9488.

[11] *See* Appendix II.

[12] *See* 19 CFR 351.309(d); *see* also *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19,* 85 FR 17006, 17007 (March 26, 2020) (''To provide adequate time for release of case briefs via ACCESS, E&C intends to schedule the due date for all rebuttal briefs to be 7 days after case briefs are filed (while these modifications remain in effect.'')).

[13] *See* 19 CFR 351.310(c).

[14] *See* 19 CFR 351.212(b)(1).

review. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

If a mandatory respondent's *ad valorem* weighted-average dumping margin is not zero or *de minimis* (*i.e.,* less than 0.50 percent) in the final results of this review, Commerce will calculate importer-specific assessment rates for that respondent, in accordance with 19 CFR 351.212(b)(1).[15] Because both respondents did not report entered value, we will calculate importer-specific per-unit duty assessment rates based on the ratio of the total amount of antidumping duties calculated for the examined sales to the total quantity of those sales.[16] To determine whether an importer-specific, per-unit assessment rate is *de minimis,* in accordance with 19 CFR 351.106(c)(2), we also will calculate an importer-specific *ad valorem* ratio based on estimated entered values.

If, in the final results, a mandatory respondent's weighted-average dumping margin is zero or *de minimis* (*i.e.,* less than 0.5 percent), Commerce will instruct CBP to liquidate the appropriate entries for that respondent without regard to antidumping duties.[17] For entries that were not reported in the U.S. sales databases submitted by each mandatory respondent during this review, and for the companies that do not qualify for a separate rate, Commerce will instruct CBP to liquidate such entries at the China-wide rate (*i.e.,* 220.87 percent).[18] For the respondents that were not selected for individual examination in this administrative review but qualified for a separate rate, the assessment rate will be equal to the weighted-average dumping margin determined in the final results of this review. Additionally, if Commerce continues to find in the final results that Shunchang Shengsheng, Xiamen Jinxi, and Green Wood had no shipments of the subject merchandise, any suspended entries of subject merchandise associated with those companies will be liquidated at the China-wide rate.

For the companies for which we have rescinded this review, Commerce intends to instruct CBP to assess antidumping duties on all appropriate entries at a rate equal to the cash deposit rate of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption in accordance with 19 CFR 351.212(c)(1)(i). Commerce intends to issue assessment instructions to CBP for the rescinded companies no earlier than 35 days after the date of publication of the preliminary results in the **Federal Register**.

If Commerce rescinds this review with respect to Aventra, TL Wood, and China Cornici in the final results, we intend to instruct CBP to assess antidumping duties on all appropriate entries at a rate equal to the cash deposit rate of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption in accordance with 19 CFR 351.212(c)(1)(i). We will issue such instructions to CBP no earlier than 35 days after the date of publication of the final results in the **Federal Register**.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for shipments of the subject merchandise from China entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C) of the Act: (1) for companies listed above that have established their eligibility for a separate rate, the cash deposit rate will be equal to the weighted-average dumping margin established in the final results of this review (except, if the rate is *de minimis,* then the cash deposit rate will be zero); (2) for previously examined Chinese and non-Chinese exporters not listed above that received a separate rate in a prior completed segment of this proceeding, the cash deposit rate will continue to be the existing exporter-specific cash deposit rate; (3) for all Chinese exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be the rate for the China-wide entity (*i.e.,* 220.87 percent); and (4) for all non-Chinese exporters of subject merchandise which have not received their own separate rate, the cash deposit rate will be the rate applicable to the Chinese exporter that supplied that non-Chinese exporter. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping and/or countervailing duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping and/or countervailing duties occurred and the subsequent assessment of double antidumping duties, and/or an increase in the amount of antidumping duties by the amount of the countervailing duties.

Notification to Interested Parties

This administrative review and notice are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act, 19 CFR 351.213(d)(4), and 19 CFR 351.221(b)(4).

Dated: February 28, 2023.

Abdelali Elouaradia,

Deputy Assistant Secretary for Enforcement and Compliance.

Appendix I—List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Period of Review
IV. Scope of the *Order*
V. Selection of Respondents
VI. Partial Rescission of Review
VII. Single Entity Determinations
VIII. Preliminary Determination of No Shipments
IX. Discussion of the Methodology
X. Recommendation

Appendix II—Non-Selected Companies Under Review Receiving a Separate Rate

1. Anji Huaxin Bamboo & Wood Products Co., Ltd.
2. Baixing Import and Export Trading Co., Ltd Youxi Fujian
3. Bel Trade Wood Industrial Co., Ltd Youxi Fujian
4. Fotiou Frames Limited
5. Fujian Hongjia Craft Products Co., Ltd.
6. Fujian Sanming City Donglai Wood Co., Ltd
7. Fujian Wangbin Decorative Material Co., Ltd
8. Fujian Youxi Best Arts & Crafts Co. Ltd
9. Fujian Zhangping Kimura Forestry Products Co., Ltd.
10. Homebuild Industries Co., Ltd.
11. Jiangsu Chen Sheng Forestry Development Co., Ltd./Jiangsu Space Axis Wood Technology Co., Ltd
12. Jiangsu Wenfeng Wood Co., Ltd.
13. Jim Fine Wooden Products Co., Ltd.
14. Longquan Jiefeng Trade Co., Ltd.
15. Nanping Huatai Wood & Bamboo Co., Ltd

[15] In these preliminary results, Commerce applied the assessment rate calculation method adopted in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification,* 77 FR 8101 (February 14, 2012).

[16] We received comments concerning entered value from U.S. importers. We have issued supplemental questionnaires and the responses are not due until after the preliminary results. Therefore, we will take these comments and the responses to these questionnaires into consideration for the final results.

[17] *See* 19 CFR 351.106(c)(2).

[18] *See Order.*

16. Omni One, Co., Limited
17. Putian Yihong Wood Industry Co., Ltd.
18. Raoping HongRong Handicrafts, Co., Ltd.
19. Shandong Miting Household Co., Ltd.
20. Shaxian Hengtong Wood Industry Co., Ltd
21. Shaxian Shiyiwood, Ltd
22. Shenzhen Xinjintai Industrial Co., Ltd.
23. Shuyang Kevin International Co., Ltd
24. Sun Valley Shade Co., Ltd.
25. Suqian Sulu Import & Export Trading Co., Ltd
26. Tim Feng Manufacturing Co., Ltd.
27. Wuxi Boda Bamboo & Wood Industrial Co., Ltd.
28. Zhangzhou Wangjiamei Industry & Trade Co., Ltd.
29. Zhangzhou Yihong Industrial Co., Ltd.

Appendix III—Companies for Which the Review Is Rescinded

1. Anji Golden Elephant Bamboo Wooden Industry Co., Ltd
2. Cao County Hengda Wood Products Co., Ltd
3. Evermark (Yantai) Co., Ltd
4. Fujian Nanping Yuanqiao Wood Industry Co., Ltd
5. Fujian Province Youxi County Chang Sheng Wood Machining Co., Ltd
6. Fujian Ruisen International Industrial Co., Ltd
7. Heze Huasheng Wooden Co., Ltd
8. Huaan Longda Wood Industry Co., Ltd
9. Lanzhou Xinyoulian Industrial Co., Ltd
10. Lianyungang Tianke New Energy Technology Co., Ltd
11. Nanping Qiangmei Import & Export Co., Ltd
12. Oppein Home Group Inc
13. Pucheng County Qiangmei Wood Company, Ltd
14. Qimen Jianxing Bamboo and Wood Goods Co., Ltd
15. Qingdao Sanhe Dacheng International Trade Co., Ltd
16. Rizhao Duli Trade Co., Ltd
17. Rizhao Forest International Trading Co., Ltd.
18. Rizhao Guantong Woodworking Co., Ltd
19. Rizhao Jiayue Industry & Trading Co., Ltd
20. Sanming Lingtong Trading Co., Ltd/ Sanming Lintong Trading Co., Ltd
21. Sanming Shitong Wood Industry Co., Ltd
22. Shandong Jicheng Decorative Material Co., Ltd
23. Shouguang Luli Wood Industry Co., Ltd.
24. Shuyang Zhongding Decoration Materials Co., Ltd
25. The Ancientree Cabinet Co., Ltd
26. Xiamen Oubai Industry & Trade Co., Ltd
27. Xuzhou Goodwill Resource Co., Ltd
28. Xuzhou Hexi Wood Co., Ltd
29. Yongan Tenlong Bamboo & Wood Products Co., Ltd
30. Zhangping San Chuan Industrial & Trade Co., Ltd
31. Zhangzhou Fukangyuan Industry and Trade Co., Ltd
32. Zhangzhou City Jinxi Building Material Co., Ltd
33. Zhejiang Senya Board Industry Co., Ltd

[FR Doc. 2023–04609 Filed 3–6–23; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C–533–874]

Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel From India: Preliminary Results of Countervailing Duty Administrative Review; 2021

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily finds that countervailable subsidies are being provided to producers and exporters of certain cold-drawn mechanical tubing of carbon and alloy steel (cold-drawn mechanical tubing) from India during the period of review, January 1, 2021, through December 31, 2021. Interested parties are invited to comment on these preliminary results.

DATES: Applicable March 7, 2023.

FOR FURTHER INFORMATION CONTACT: Eliza DeLong or Eric Hawkins, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–3878 or (202) 482–1988, respectively.

SUPPLEMENTARY INFORMATION:

Background

On February 1, 2018, Commerce published the countervailing duty order on cold-drawn mechanical tubing from India.[1] On February 8, 2022, Commerce published a notice of initiation of an administrative review of the *Order*.[2] On October 6, 2022, Commerce extended the time period for issuing these preliminary results by 120 days, in accordance with section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), to no later than February 28, 2023.[3]

For a complete description of the events that followed the initiation of this review, *see* the Preliminary Decision Memorandum.[4] A list of topics discussed in the Preliminary Decision Memorandum is included as the appendix to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Scope of the Order

The merchandise covered by the *Order* is cold-drawn mechanical tubing from India. For a complete description of the scope of the *Order, see* the Preliminary Decision Memorandum.

Methodology

Commerce is conducting this review in accordance with section 751(a)(1)(A) of the Act. For each of the subsidy programs found countervailable, we preliminarily find that there is a subsidy, *i.e.,* a financial contribution that gives rise to a benefit to the recipient, and the subsidy is specific.[5] For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum.

Companies Not Selected for Individual Review

The Act and Commerce's regulations do not directly address the subsidy rate to be applied to companies not selected for individual examination where Commerce limits its examination in an administrative review pursuant to section 777A(e)(2) of the Act. However, Commerce normally determines the rates for non-selected companies in reviews in a manner that is consistent with section 705(c)(5) of the Act, which provides instructions for calculating the all-others rate in an investigation. Section 777A(e)(2) of the Act provides that ''the individual countervailable subsidy rates determined under subparagraph (A) shall be used to determine the all-others rate under section 705(c)(5) {of the Act}.'' Section 705(c)(5)(A) of the Act states that for companies not investigated, in general, we will determine an all-others rate by

[1] *See Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the People's Republic of China and India: Countervailing Duty Orders,* 83 FR 4637 (February 1, 2018) (*Order*).

[2] *See Initiation and Countervailing Duty Administrative Reviews,* 87 FR 21619 (April 12, 2022).

[3] *See* Memorandum, ''Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from India: Extension of Deadline for Preliminary Results of Countervailing Duty Administrative Review, 2021,'' dated October 6, 2022.

[4] *See* Memorandum, ''Decision Memorandum for the Preliminary Results of Countervailing Duty Administrative Review: Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from India; 2021,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[5] *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

weight-averaging the countervailable subsidy rates established for each of the companies individually investigated, excluding zero and *de minimis* rates or any rates based solely on the facts available.

Accordingly, to determine the rate for companies not selected for individual examination, Commerce's practice is to weight average the net subsidy rates for the selected mandatory respondents, excluding rates that are zero, *de minimis,* or based entirely on facts available.[6] We preliminarily determine that Goodluck India Limited (Goodluck) and Tube Investments of India Ltd. (TII) received countervailable subsidies that are above *de minimis* and are not based entirely on facts available. Therefore, we preliminarily determine to apply the weighted average of the net subsidy rates calculated for Goodluck and TII using publicly ranged sales data submitted by those respondents to the non-selected companies.[7] The companies for which a review was requested, and which were not selected as mandatory respondents or found to be cross-owned with a mandatory respondent, are Lal Baba Seamless Tubes Pvt. Ltd. and Metamorphosis Engitech India Pvt. Ltd.

Preliminary Results of Review

For the period January 1, 2021, through December 31, 2021, we preliminarily find that the following net subsidy rates exist:

Company	Subsidy rate (percent *ad valorem*)
Goodluck India Limited[8]	3.53
Tube Investments of India Ltd[9]	3.97
Review-Specific Average Rate Applicable to the Following	
Lal Baba Seamless Tubes Pvt. Ltd	3.79
Metamorphosis Engitech India Pvt. Ltd	3.79

Disclosure and Public Comment

We will disclose to parties to this proceeding the calculations performed in reaching the preliminary results within five days of the date of publication of these preliminary results in accordance with 19 CFR 351.224(b).[10]

A timeline for the submission of case and rebuttal briefs and written comments will be provided to interested parties at a later date. Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.[11] Case and rebuttal briefs should be filed using ACCESS[12] and must be served on interested parties.[13] Executive summaries should be limited to five pages total, including footnotes. Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.[14]

Interested parties who wish to request a hearing must do so within 30 days of publication of these preliminary results by submitting a written request to the Assistant Secretary for Enforcement and Compliance using Enforcement and Compliance's ACCESS system.[15] Requests should contain the party's name, address, and telephone number, the number of participants, and a list of the issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case and rebuttal briefs.[16] If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined. Parties should confirm the date and time of the hearing two days before the scheduled date. Parties are reminded that all briefs and hearing requests must be filed electronically using ACCESS and received successfully in their entirety by 5:00 p.m. Eastern Time on the due date.

Verification

As provided in section 782(i)(3) of the Act, Commerce intends to verify the information relied upon here in advance of the final results of this review.

Assessment Rate

Consistent with section 751(a)(2)(C) of the Act, upon issuance of the final results, Commerce shall determine, and U.S. Customs and Border Protection (CBP) shall assess, countervailing duties on all appropriate entries in accordance with the final results of this review. If the assessment rate calculated in the final results is zero or *de minimis,* we will instruct CBP to liquidate all appropriate entries without regard to countervailing duties.

Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

Cash Deposit Requirements

Pursuant to section 751(a)(2)(C) of the Act, Commerce intends to instruct CBP to collect cash deposits of estimated countervailing duties in the amounts shown for each of the companies listed above on shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review, except where the rate calculated in the final results is zero or *de minimis,* no cash deposit will be required. For all non-reviewed firms, we will instruct CBP to continue to collect cash deposits of estimated countervailing duties at the most recent company-specific or all-others rate applicable to the company, as appropriate. These cash deposit instructions, when imposed, shall remain in effect until further notice.

Final Results of Review

Unless the deadline is extended pursuant to section 751(a)(3)(A) of the Act, Commerce intends to issue the final results of this administrative review, including the results of our analysis of the issues raised by the parties in their comments, within 120 days after publication of these preliminary results.

Notification to Interested Parties

This administrative review and notice are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.213.

Dated: February 28, 2023.

Abdelali Elouaradia,

Deputy Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Scope of the *Order*

[6] *See, e.g., Certain Pasta from Italy: Final Results of the 13th (2008) Countervailing Duty Administrative Review,* 75 FR 37386, 37387 (June 29, 2010).

[7] *See* Memorandum, ''Calculation of Subsidy Rate for Non-Selected Companies Under Review,'' dated concurrently with this memorandum.

[8] Entries for Goodluck India Limited may have been made under the following company names: Goodluck India Limited (formerly Good Luck Steel Tubes Limited); Good Luck Steel Tubes Limited Good Luck House; and Good Luck Industries.

[9] Tube Investments of India Ltd. is also known as Tube Investments of India Limited.

[10] *See* 19 CFR 351.224(b).

[11] *See* 19 CFR 351.309(c)(2) and (d)(2).

[12] *See generally* 19 CFR 351.303.

[13] *See* 19 CFR 351.303(f).

[14] *See Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19; Extension of Effective Period,* 85 FR 41363 (July 10, 2020).

[15] *See* 19 CFR 351.310(c).

[16] *See* 19 CFR 351.310.

IV. Period of Review
V. Rate for Non-Examined Companies
VI. Subsidies Valuation Information
VII. Benchmarks and Interest Rates
VIII. Use of Facts Otherwise Available and Application of Adverse Inferences
IX. Analysis of Programs
X. Recommendation

[FR Doc. 2023–04567 Filed 3–6–23; 8:45 am]

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DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

NIST Safety Commission

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice of open meeting.

SUMMARY: The National Institute of Standards and Technology (NIST) Safety Commission (Commission) will meet on March 9, 2023, from 8:30 a.m. to 5 p.m. Mountain Time and March 10, 2023, from 8:30 a.m. to 5 p.m. Mountain Time. The purpose of this meeting is for the Commission to continue its assessment of the state of NIST's safety culture and how effectively the existing safety protocols and policies have been implemented across NIST. The agenda may change to accommodate Commission business. The final agenda will be posted on the NIST website at *https://www.nist.gov/director/nist-safety-commission/march-9-10-nist-safety-commission-meeting-agenda.*

DATES: The Commission will meet on March 9, 2023, from 8:30 a.m. to 5 p.m. Mountain Time and March 10, 2023, from 8:30 a.m. to 5 p.m. Mountain Time.

ADDRESSES: The meeting will be held at the National Institute of Standards and Technology, 325 Broadway, Boulder, CO 80305 for the NIST Safety Commission members and NIST Senior Leadership with an option to participate via webinar for NIST staff and public participants. Please note admittance instructions under the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION CONTACT: Corrine Lloyd, Special Programs Office, National Institute of Standards and Technology, at 301–975–8762 or *corrine.lloyd@nist.gov.*

SUPPLEMENTARY INFORMATION:

Authority: 15 U.S.C. 1512 and the Federal Advisory Committee Act, 5 U.S.C. 1001 *et seq.*

Pursuant to the Federal Advisory Committee Act, 5 U.S.C. 1001 *et seq.,* notice is hereby given that the NIST Safety Commission will meet on March 9, 2023, from 8:30 a.m. to 5 p.m. Mountain Time and March 10, 2023, from 8:30 a.m. to 5 p.m. Mountain Time. The meeting will be open to the public. Members of the Commission are appointed by the Director of NIST. The Commission is composed of not more than seven members who are qualified to provide advice to the NIST Director on matters relating to safety policies; safety management system, practices, and performance; and safety culture. The primary purpose of this meeting is for the Commission to continue its assessment of the state of NIST's safety culture and how effectively the existing safety protocols and policies have been implemented across NIST. The agenda may change to accommodate Commission business. The final agenda will be posted on the NIST website at *https://www.nist.gov/director/nist-safety-commission/march-9-10-nist-safety-commission-meeting-agenda.*

Individuals and representatives of organizations who would like to offer comments and suggestions related to the Commission's business are invited to request a place on the agenda. Approximately 15 minutes will be reserved for public comments and speaking times will be assigned on a first come, first-serve basis. The amount of time per speaker will be determined by the number of requests received but is likely to be about three minutes each. Questions from the public will not be considered during this period. Requests must be submitted by email to Corrine Lloyd at *corrine.lloyd@nist.gov* and must be received by 4 p.m. Eastern Time, March 7, 2023 to be considered. Speakers who wish to expand upon their oral statements, those who had wished to speak but could not be accommodated on the agenda, and those who were unable to participate are invited to submit written statements by email to *corrine.lloyd@nist.gov.*

All NIST staff and public participants will be attending via webinar and must register at: *https://events.nist.gov/profile/form/index.cfm?PKformID=0x18963abcd* by 4:00 p.m. Eastern Time, March 7, 2023 for detailed instructions on how to join the webinar. Any questions regarding registration may be directed to Corrine Lloyd at *corrine.lloyd@nist.gov.*

Pursuant to 41 CFR 102–3.150(b), the **Federal Register** notice for this meeting is being published fewer than 15 calendar days prior to the meeting as exceptional circumstances exist. It is imperative that the meeting be held on March 9–10, 2023, to accommodate the tight working timeline of the Commission as set forth in its charter. Specifically, the charter requires the Commission to provide an oral briefing of its preliminary findings to the NIST Director within 75 days of beginning its activities, and written findings within 150 days of beginning its activities. The Commission intends to present its preliminary findings to NIST leadership at this meeting. Postponing this meeting would result in an unacceptable delay in the Commission's ability to report the findings and observations from the work of the Commission's three subcommittees, collect additional information from NIST staff at the Boulder campus, and to develop its final recommendations for NIST leadership, until well into the fall. The **Federal Register** notice could not be published previously due to logistical requirements needed to accommodate the timing requirement of the meeting, including unanticipated additional time required for completion of the work of the Commission's three subcommittees that will be reporting out at the meeting, and unanticipated additional time required to confirm availability of a representative of a third-party contractor to present on the results of the 2023 NIST Safety Culture Survey it conducted.

Alicia Chambers,

NIST Executive Secretariat.

[FR Doc. 2023–04590 Filed 3–6–23; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XC742]

Magnuson-Stevens Act Provisions; Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Approved Monitoring Service Providers

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

ACTION: Notice of approved Northeast multispecies at-sea and electronic monitoring service providers for fishing year 2023.

SUMMARY: NMFS has approved nine companies to provide Northeast multispecies sector at-sea catch monitoring and/or electronic catch monitoring services in fishing year 2023. Regulations implementing the Northeast Multispecies Fishery Management Plan require at-sea catch monitoring and electronic catch monitoring companies to be approved

by NMFS to provide catch monitoring services to sectors. This action will allow sectors to contract for catch monitoring services with any of the approved service providers for fishing year 2023.

DATES: Northeast multispecies at-sea and electronic monitoring service provider approvals are effective May 1, 2023, through April 30, 2024.

ADDRESSES: The list of NMFS-approved sector monitoring service providers is available at: *https://www.fisheries.noaa.gov/resource/data/observer-providers-northeast-and-mid-atlantic-programs.*

FOR FURTHER INFORMATION CONTACT: Samantha Tolken, Fishery Management Specialist, (978) 675–2176, email *Samantha.Tolken@noaa.gov.*

SUPPLEMENTARY INFORMATION: The Northeast Multispecies Fishery Management Plan includes a requirement for industry-funded monitoring of catch by sector vessels. NMFS approves independent third-party service providers who sectors may contract with to provide at-sea and/or electronic catch monitoring services to their vessels. Beginning this year, NMFS is requiring full applications for approval only from at-sea catch monitoring (ASM) and electronic catch monitoring (EM) companies that are not currently approved to be a service provider. Previously approved ASM and EM companies are no longer required to submit a full application to maintain their approval status if they continue to meet all service provider performance standards and submit required updated information annually. The required updated information to maintain approval includes an updated Emergency Action Plan, evidence of adequate insurance coverage, and, if applicable, any updates to staffing or operations. Regulations at 50 CFR 648.11(h) describe the criteria for approval of ASM and EM service provider applications. NMFS approves service providers based on: (1) Completeness and sufficiency of applications; and (2) determination of the applicant's ability to meet the performance requirements of a sector monitoring service provider. Once approved, service providers must meet specified performance requirements outlined in § 648.11(h)(5) and (6), including required coverage levels, in order to maintain eligibility. NMFS must notify service providers, in writing, if NMFS withdraws approval for any reason.

Approved Monitoring Service Providers

On December 9, 2022, NMFS announced an opportunity for new monitoring companies to apply for approval to provide ASM and/or EM services in fishing year 2023, and an opportunity for currently approved providers to submit documentation to maintain their approval status in fishing year 2023. NMFS previously approved nine companies to provide catch monitoring services to the Northeast multispecies sectors in fishing year 2022. Four of the nine approved companies provide both ASM and EM services: A.I.S., Inc.; East West Technical Services, LLC; Fathom Research, LLC; and Saltwater, Inc. The other five approved companies provide EM services only: Archipelago Marine Research, Ltd.; Flywire Cameras; New England Marine Monitoring; Satlink US, LLC; and Teem Fish Monitoring, Inc.

All currently approved ASM and EM companies continue to meet all service provider performance standards, submitted all required documentation, and are therefore approved service providers for fishing year 2023. Additionally, one company previously approved only for EM services, New England Marine Monitoring, met the ASM application requirements, documented its ability to comply with service provider standards, and therefore is newly approved to provide ASM services in fishing year 2023, in addition to EM services. Table 1 includes the revised list of approved monitoring service providers.

The new procedures do not change NMFS's authority to remove a service provider from its approved status in accordance with the regulations at § 648.11(h)(7). A monitoring service provider that fails to meet the requirements, conditions, and responsibilities will be notified in writing that it is subject to removal from the list of approved monitoring service providers. Withdrawing approval of a service provider will be based on an evaluation of the service providers ability to meet the third-party catch monitoring provider standards in § 648.11(h)(5) and (6). NMFS will closely monitor the performance of approved service providers, and will withdraw approval during the current approval term if we determine performance standards are not being met.

NMFS did not solicit applications to provide dockside monitoring (DSM) services related to the maximized retention EM program. NMFS intends to continue to fund and manage the DSM program for the remainder of the 2022 and 2023 fishing years. In future fishing years, NMFS intends to solicit applications to be an approved DSM provider when the DSM program transitions to industry funding.

TABLE 1—APPROVED PROVIDERS FOR FISHING YEAR 2023

Provider	Services	Address	Phone	Fax	Website
A.I.S., Inc	ASM/EM	540 Hawthorn St., Dartmouth, MA 02747.	508–990–9054	508–990–9055	*https://aisobservers.com/.*
Archipelago Marine Research, Ltd.	EM	525 Head St., Victoria, BC V9A 5S1 Canada.	250–383–4535	250–383–0103	*https://www.archipelago.ca/.*
East West Technical Services, LLC.	ASM/EM	91 Point Judith Rd., Suite 26 Unit 347 Narragansett, RI 02882.	860–910–4957	860–223–6005	*https://www.ewts.com/.*
Fathom Resources, LLC	ASM/EM	855 Aquidneck Ave., Unit 9, Middletown, RI 02842.	508–990–0997	508–858–5383	*https://fathomresources.com/.*
Flywire Cameras	EM	PO BOX 55048, Lexington, KY 40511.	888–315–7796	502–861–6568	*https://www.flywirecameras.com/.*
New England Marine Monitoring.	ASM/EM	350 Commercial St., Portland, ME 04101.	508–269–8138		*https://www.nemarinemonitoring.com/.*
Saltwater, Inc	ASM/EM	733 N St., Anchorage, AK 99501.	907–276–3241	907–258–5999	*https://www.saltwaterinc.com/.*
Satlink US, LLC	EM	16423 Sawgrass Drive, Rehoboth Beach, DE 19971.	703–447–5287		*https://www.satlink.es/en/.*

TABLE 1—APPROVED PROVIDERS FOR FISHING YEAR 2023—Continued

Provider	Services	Address	Phone	Fax	Website
Teem Fish Monitoring, Inc.	EM	309 2nd Ave., Suite 363, Prince Rupert, BC V8J 3T1 Canada.	778–884–2598	.....	*https://teem.fish/.*

Note: ASM/EM = At-sea and electronic monitoring; EM = Electronic monitoring only.

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

Dated: March 2, 2023.

Jennifer M. Wallace,

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

[FR Doc. 2023–04632 Filed 3–6–23; 8:45 am]

BILLING CODE 3510–23–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XC827]

Endangered and Threatened Species; Take of Anadromous Fish

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

ACTION: Notice of receipt for one application to renew a scientific enhancement permit.

SUMMARY: Notice is hereby given that NMFS received an application from the U.S. Fish and Wildlife Service (USFWS) to renew their U.S. Endangered Species Act (ESA) Section 10(a)(1)(A) scientific enhancement permit (permit 20571–2R) for the reintroduction of Central Valley (CV) spring-run Chinook salmon to the San Joaquin River for the San Joaquin River Restoration Program. Proposed activities within the permit application are expected to affect the threatened CV spring-run Chinook salmon (*Oncorhynchus tshawytscha*), California Central Valley (CCV) Distinct Population Segment (DPS) of steelhead (*Oncorhynchus mykiss*) and the threatened Southern DPS (sDPS) of North American green sturgeon (*Acipenser medirostris*). The public is hereby notified the application for Permit 20571–2R is available for review and comment before NMFS either approves or disapproves the application.

DATES: Written comments on the permit application must be received at the appropriate email address (see **ADDRESSES**) on or before April 6, 2023.

ADDRESSES: Written comments on the permit application should be submitted to NMFS' Section 10(a)(1)(A) steelhead permit coordinator for the San Joaquin River Restoration Program, Ms. Hilary Glenn, via email (*hilary.glenn@noaa.gov*). The permit application is available for review online at the Authorizations and Permits for Protected Species website: *https://apps.nmfs.noaa.gov/preview/preview_open_for_comment.cfm*.

FOR FURTHER INFORMATION CONTACT: Ms. Hilary Glenn (email: *hilary.glenn@noaa.gov*; phone: 916–200–8211).

SUPPLEMENTARY INFORMATION:

Species Covered in This Notice

Threatened CV spring-run Chinook salmon (*Oncorhynchus tshawytscha*); Threatened CCV Distinct Population Segment of steelhead (*Oncorhynchus mykiss*); Threatened sDPS of North American green sturgeon (*Acipenser medirostris*).

Authority

Scientific research and enhancement permits are issued in accordance with Section 10(a)(1)(A) of the ESA (16 U.S.C. 1531 *et. seq*) and regulations governing listed fish and wildlife permits (50 CFR 222–227). NMFS issues permits based on findings that such permits (1) are applied for in good faith, (2) would not operate to the disadvantage of the listed species which are the subject of the permits, and (3) are consistent with the purposes and policies set forth in Section 2 of the ESA. Authority to take listed species is subject to conditions set forth in the permits.

This notice is provided pursuant to Section 10(c) of the ESA. NMFS will evaluate the application, associated documents, and any comment submitted to determine whether the application meets the requirements of Section 10(a) of the ESA and Federal regulations. The final permit decisions will not be made until after the end of the 30-day comment period and consideration of any comment submitted therein. NMFS will publish notice of the final action on the subject permit application in the **Federal Register**.

Those individuals requesting a hearing on the application listed in this notice should provide the specific reasons why a hearing on the application would be appropriate (see **ADDRESSES**). Such a hearing is held at the discretion of the Assistant Administrator for Fisheries, NOAA.

Permit 20571–2R

USFWS applied to renew their Section 10(a)(1)(A) scientific enhancement permit (Previous Federal Permit/Authorization: 20571) involving continued reintroduction of CV spring-run Chinook salmon to the San Joaquin River, from the Merced River confluence to Friant Dam and implementation of the San Joaquin River Restoration Program (SJRRP) in the San Joaquin River Restoration Area. The Restoration Area is 153 miles (246 km) long, from Friant Dam downstream to the San Joaquin River's confluence with the Merced River. This stretch of river crosses the California counties of Fresno, Madera and Merced. The primary objectives of this effort involve: (1) the collection of various lifestages of CV spring-run Chinook salmon from source stocks for broodstock and release into the San Joaquin River; (2) the continued release of CV spring-run Chinook salmon into the San Joaquin River; (3) the collection of returning adults for broodstock or transport; (5) the use of various types of tags and marking for the purpose of tracking and monitoring; (6) surveys of holding adults; (7) spawning and carcass surveys; (8) artificial propagation, egg-incubation, juvenile rearing, and holding of spring-run Chinook Salmon; and, (9) installation of approved nets and traps to aid in population monitoring and production. Proposed monitoring activities include: fyke nets with wing walls and fish traps, trammel nets, hand seins, handling (conducting length measurements, gender identification, tissue and scale collection, assessment of condition, checking for the presence of tags), and Passive Integrated Transponder (PIT) tagging of fish inclusive of CV spring-run Chinook salmon, CCVsteelhead, and sDPS green sturgeon.

The USFWS is requesting this permit renewal be issued for a period of 5 years, 01/01/2024 to 12/31/2028. Activities and their timing may vary depending upon conditions and SJRRP needs, but are anticipated to occur

annually as follows: eggs and juveniles will be collected from source stocks September through May, juveniles will be released into the San Joaquin River intermittently October through April, adult releases into the San Joaquin River will take place intermittently February through October, returning adults (for broodstock or transport) will be collected January through October, acoustic tracking surveys will occur year-round, snorkel surveys will occur January through October, redd grates and emergence trapping will occur September through March, transport and handling of collected individuals will occur year-round as needed, and spawning, egg-incubation, juvenile rearing, and holding will occur at the Interim Facility, Salmon Conservation and Research Facility, or Satellite Incubation and Rearing Facility year-round.

The specific take numbers are outlined in the permit application but include both lethal and non-lethal take of CV spring-run Chinook salmon, non-lethal take of CCV steelhead, and non-lethal take of sDPS of green sturgeon.

This proposed scientific enhancement effort is expected to provide valuable information for the most southern extent of CV spring-run Chinook salmon, CCV steelhead, and the sDPS of green sturgeon to the SJRRP and the California Department of Fish and Wildlife's comprehensive monitoring plan for steelhead in the Central Valley, respectively. The proposed monitoring by USFWS is consistent with recommendations and objectives outlined in NMFS' Recovery Plan for Central Valley salmonids and the sDPS of green sturgeon. See the application for Permit 20571–2R for greater details on the scientific enhancement proposal and related methodology.

Dated: March 2, 2023.

Angela Somma,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2023–04667 Filed 3–6–23; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Communications Supply Chain Risk Information Partnership Supplemental Information Gathering

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 will help 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 December 28, 2022, during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: National Telecommunications and Information Administration, Commerce.

Title: Communications Supply Chain Risk Information Partnership Supplemental Information Gathering.

OMB Control Number: 0660–XXXX.

Form Number(s): None.

Type of Request: New information collection.

Number of Respondents: Approximately 300.

Average Hours per Response: 1/6 (10 minutes).

Burden Hours: 50.

Needs and Uses: The Secure and Trusted Communications Networks Act of 2019 (STCNA), Public Law 112–96, 133 Stat. 158 (2020) (codified as amended at 47 U.S.C. 1601–1609), tasked NTIA with establishing a program to share information regarding supply chain security risks with trusted providers of advanced communications service and trusted suppliers of communications equipment or services. Furthermore, STCNA directed NTIA to conduct regular briefings and events and engage with trusted providers of advanced communications service and trusted suppliers of communications equipment or services, particularly small businesses or those that primarily serve rural areas.

NTIA engages in several activities to satisfy the statutory obligations assigned by STCNA, including hosting a public-facing C–SCRIP website to disseminate information about the program as well as public, open-source, unclassified supply chain alerts and information, and training opportunities. The agency also distributes a bi-monthly newsletter for those who subscribe to communications via the C–SCRIP website and conducts webinars and briefings on a variety of cybersecurity and supply chain security topics.

To tailor its engagement and more effectively and efficiently disseminate information, NTIA is seeking to collect additional biographical information from those signing up for its newsletter. Specifically, NTIA would like to collect a subscriber's name, title, employer, location (state and country), and email address. This information will enable NTIA staff to better understand the demographics of its constituents. As a result, NTIA will be able to create and distribute cybersecurity and supply chain risk information that will be more useful to its constituents and to attend events in locations where its core audience is also likely to be able to attend.

Affected Public: Business or other for-profit organizations; not-for-profit institutions; State, local, or Tribal government; Federal Government; or any other member of the public who wishes to receive the C–SCRIP newsletter.

Frequency: Once—at sign up.

Respondent's Obligation: Voluntary.

Legal Authority: Secure and Trusted Communications Networks Act of 2019 (STCNA), Public Law 112–96, 133 Stat. 158 (2020) (codified as amended at 47 U.S.C. 1601–1609).

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 the title of the collection.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2023–04618 Filed 3–6–23; 8:45 am]

BILLING CODE 3510–60–P

DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

[Docket No. PTO–P–2023–0007]

Grant of Interim Extension of the Term of U.S. Patent No. 6,929,639—POLARX® (Cryoablation Balloon Catheter)

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Notice of interim patent term extension.

SUMMARY: The United States Patent and Trademark Office has issued a certificate under 35 U.S.C. 156(d)(5) for a one-year interim extension of the term of U.S. Patent No. 6,929,639.

FOR FURTHER INFORMATION CONTACT: Andrea Grossman, Legal Advisor (telephone (571) 270–3314; email *andrea.grossman@uspto.gov*) or Kathleen Kahler Fonda, Senior Legal Advisor (telephone (571) 272–7754; email *kathleen.fonda@uspto.gov*). Alternatively, mail may be addressed to Commissioner for Patents, Mail Stop Hatch-Waxman PTE, P.O. Box 1450, Alexandria, VA, 22313–1450, and marked to the attention of Ms. Grossman or Ms. Fonda.

SUPPLEMENTARY INFORMATION: Section 156 of Title 35, United States Code, generally provides that the term of a patent may be extended for a period of up to five years if the patent claims a product, or a method of making or using a product, that has been subject to certain defined regulatory review, and that the patent may be extended for interim periods of up to one year if the regulatory review is anticipated to extend beyond the expiration date of the patent.

On February 10, 2023, Boston Scientific Scimed, Inc., the patent owner of record, timely filed an application under 35 U.S.C. 156(d)(5) for an interim extension of the term of U.S. Patent No. 6,929,639. The patent claims a cryoablation balloon catheter, POLARX®. The application for patent term extension indicates that Premarket Approval Application P220032 was submitted to the Food and Drug Administration on December 20, 2022.

Review of the patent term extension application indicates that, except for permission to market or use the product commercially, the subject patent would be eligible for an extension of the patent term under 35 U.S.C. 156, and that the patent should be extended for one year as required by 35 U.S.C. 156(d)(5)(B). Because the regulatory review period will continue beyond the original expiration date of the patent, March 16, 2023, interim extension of the patent term under 35 U.S.C. 156(d)(5) is appropriate.

An interim extension under 35 U.S.C. 156(d)(5) of the term of U.S. Patent No. 6,929,639 is granted for a period of one year from the original expiration date of the patent.

Robert Bahr,

Deputy Commissioner for Patents, United States Patent and Trademark Office.

[FR Doc. 2023–04661 Filed 3–6–23; 8:45 am]

BILLING CODE 3510–16–P

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Request for Public Comment on a Commercial Availability Request Under the U.S.-Chile Free Trade Agreement

AGENCY: The Committee for the Implementation of Textile Agreements (CITA).

ACTION: Request for public comments.

SUMMARY: In June 2015, the Government of the United States received a request from the Government of Chile to modify the U.S.-Chile Free Trade Agreement (FTA) rules of origin for woven fabrics of artificial filament yarn in subheadings 5408.22–5408.23 of the Harmonized Tariff Schedule of the United States (HTSUS) to allow the use of non-U.S. or Chilean filament yarn of viscose rayon classified in subheadings 5403.10, 5403.31, 5403.32, and 5403.41 of the HTSUS. In July 2015, CITA solicited public comments on this request, in particular with regard to whether filament yarn of viscose rayon classified in subheadings 5403.10, 5403.31, 5403.32, and 5403.41 can be supplied by the domestic industry in commercial quantities in a timely manner. No information was received at that time indicating that domestic industry could supply the subject yarns. Subsequently, the United States and Chile have continued to consult regarding the subject rule change. In November 2022, the Government of Chile reiterated its interest in advancing the subject rule change. Given the period of time that has elapsed since CITA initially solicited public comments on this request, CITA is again soliciting public comments to determine if the subject yarns can be supplied by the domestic industry in commercial quantities in a timely manner. The President may proclaim a modification to the U.S.-Chile FTA rules of origin only after reaching an agreement with Chile on the modification and after other domestic processes are completed to implement the modification.

DATES: Comments must be submitted by April 6, 2023.

ADDRESSES: Submit comments to the Chairman, Committee for the Implementation of Textile Agreements, Room 30003, United States Department of Commerce, Washington, DC 20230. Public versions of such comments may be submitted electronically to *otexa@trade.gov.* Interested persons who wish to submit business confidential information electronically should contact *Laurie.Mease@trade.gov* for instructions for secure online submission.

FOR FURTHER INFORMATION CONTACT: Laurie Mease, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–2043 or *Laurie.Mease@trade.gov.*

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended; Section 202 of the U.S.-Chile Free Trade Agreement Implementation Act (19 U.S.C. 3805).

Background

Under the U.S.-Chile Free Trade Agreement (FTA), each country is required to eliminate customs duties on textile and apparel goods that qualify as originating goods under the FTA rules of origin, which are set out in Annex 4.1 to the FTA. Article 3.20 of the FTA provides that the rules of origin for textile and apparel products may be amended through a subsequent agreement between the two countries under certain circumstances. In the consultations regarding such a change, the two countries are to consider issues of availability of fibers, yarns, or fabrics in the free trade area and whether domestic producers are capable of supplying commercial quantities of the good in a timely manner. Section 202 of the U.S.-Chile FTA Implementation Act provides the President with the authority to proclaim modifications to the FTA rules of origin as are necessary to implement an agreement with Chile on such a modification.

In June 2015, the Government of the United States received a request for consultations from the Government of Chile for the purpose of considering whether the FTA rules of origin for woven fabrics of artificial filament yarn in subheadings 5408.22–5408.23 of the HTSUS should be modified to allow the use of non-U.S. or Chilean filament yarn

of viscose rayon. The request alleged that filament yarn of viscose rayon classified in subheadings 5403.10, 5403.31, 5403.32, and 5403.41 of the HTSUS cannot be supplied by the domestic industry in commercial quantities in a timely manner. In 80 FR 44076 (July 24, 2015), CITA solicited public comments regarding this request, particularly with respect to whether filament yarn of viscose rayon can be supplied by the domestic industry in commercial quantities in a timely manner. No information was received at that time indicating that domestic industry could supply the subject yarns.

Subsequently, the United States and Chile have continued to consult regarding the subject rule change. In November 2022, the Government of Chile reiterated its request for the subject rule change. Accordingly, CITA is again soliciting public comments on the request to determine if the subject yarns can be supplied by the domestic industry in commercial quantities in a timely manner.

Comments must be received no later than April 6, 2023. Interested persons are invited to submit such comments or information to the Chairman, Committee for the Implementation of Textile Agreements, Room 30003, U.S. Department of Commerce, 14th and Constitution Avenue NW, Washington, DC 20230. Public versions of such comments may be submitted electronically to *otexa@trade.gov.* Interested persons who wish to submit business confidential information electronically should contact *Laurie.Mease@trade.gov* for instructions for secure online submission.

If a comment alleges that filament yarn of viscose rayon can be supplied by the domestic industry in commercial quantities in a timely manner, CITA will closely review any supporting documentation, such as a signed statement by a manufacturer stating that it produces the filament yarn of viscose rayon that is the subject of the request, including the quantities that can be supplied and the time necessary to fill an order, as well as any relevant information regarding past production.

CITA will protect any business confidential information that is marked ''business confidential'' from disclosure to the full extent permitted by law. Persons submitting comments on a request should include a non-confidential version that summarizes the information included in the confidential version.

Jennifer Knight,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 2023–04555 Filed 3–6–23; 8:45 am]

BILLING CODE P

CONSUMER PRODUCT SAFETY COMMISSION

[Docket No. CPSC–2023–0009]

Request for Information on Chronic Hazards Associated With Gas Ranges and Proposed Solutions

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of request for information.

SUMMARY: The Consumer Product Safety Commission (Commission or CPSC) is publishing this notice to request information on chronic hazards associated with gas ranges and proposed solutions to those hazards.

DATES: Written comments must be submitted by May 8, 2023.

ADDRESSES: You can submit comments, identified by Docket No. CPSC–2023–0009, by any of the following methods:

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

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

Instructions: All submissions must include the agency name and docket number. CPSC may post all comments without change, including any personal identifiers, contact information, or other personal information provided to *www.regulations.gov.* If you wish to submit confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public, you may submit such comments by mail, hand delivery, or courier, or you may email them to: *cpsc-os@cpsc.gov.*

Docket: For access to the docket to read background documents or comments received, go to *www.regulations.gov,* and insert the docket number, CPSC–2023–0009, into the ''Search'' box, and follow the prompts.

I. Background

Gas ranges are large residential appliances used to cook food, where the energy needed to heat the food is generated by the burning of a gas fuel such as natural gas or liquefied petroleum gas (LPG).[1] Gas ranges are also sometimes referred to as, or include, gas stoves, gas cooktops, gas stovetops, and gas ovens.

This request for information (RFI) [2] seeks input from the public on chronic chemical hazards from gas ranges. Chemical hazards result in acute (short-term) or chronic (long-term) adverse health outcomes resulting from exposures to chemical substances. This RFI does not cover non-chemical (*i.e.,* fire, electrical mechanical) hazards, except as relevant to chemical hazard issues such as solutions and potential trade-offs, nor does it cover acute chemical hazards (*e.g.,* carbon monoxide (CO) poisoning). This RFI does not constitute or propose regulatory action, but rather is intended to inform the Commission and the public.

II. Information Requested

CPSC is requesting information from all stakeholders such as consumers, manufacturers, government agencies, non-governmental organizations, and researchers on chronic chemical hazards associated with the use of gas ranges, and proposed solutions. The Commission seeks comment on all significant aspects of this issue, including but not limited to the following questions.

Question 1: Please provide information related to the scope and scale of potential chronic chemical

[1] LPG contains a mix of flammable simple hydrocarbon gases, primarily propane but also butane, isobutane, propylene, and butylene.

[2] The Commission voted 3–1 to approve publication of this notice. Chair Hoehn-Saric, Commissioners Trumka and Boyle voted to approve publication of the notice as drafted. Commissioner Feldman voted to not approve publication of the notice. Commissioner Trumka issued a statement in connection with his vote available at: *https://www.cpsc.gov/s3fs-public/RCA-Draft-Federal-Register-Notice-Request-for-information-on-chronic-hazards-associated-with-gas-ranges-and-proposed-solutions.pdf?VersionId=_t7VvFidNZttG3UoRVYuwJEVxioilrtS.*

hazards, exposures, and risks associated with gas range use.

(a) Please provide information related to habits and practices surrounding consumers' use of gas ranges in residential settings. How many U.S. homes have gas ranges? What is the duration of gas range usage per cooking event, per day (*i.e.,* minutes to hours)? How many days per week/year is a gas range used? Provide information on infrequent, high-end usage events such as using the oven-cleaning cycle or preparing for large holiday gatherings.

(b) Please provide information on related (non-cookware) products used in conjunction with gas ranges and their frequency of use. Examples of related products of interest are range hoods (in general), CO alarms, smoke alarms, chemical sensors other than CO, portable air filters, etc.

(c) Please provide information on the naming/definition, requirements for, frequency of use, and performance of different kinds of range hoods (*i.e.,* external venting, recirculating, wall-mounted canopy, under-cabinet, microwave/combo, island/ceiling, or retractable downdraft, etc.).

(d) Please provide information on the frequency of occurrence of reported gas leaks associated with gas range defects or related equipment or installation defects.

(e) Please provide details on chronic chemical hazards associated with gas range use. Specify the nature of the chronic chemical hazard, the brand of gas range (if available), and additional context for settings and conditions related to exposures if available.

(f) Please provide any additional information not requested above related to the scale and scope of potential chronic chemical hazards associated with gas range use.

Question 2: Please provide information related to data sources and approaches CPSC should consider when completing an evaluation of chronic chemical hazards, exposures, and risks related to gas range use.

(a) Please provide product testing information or studies that describe the emissions of chemical substances from gas ranges over time, including average and peak levels where available. Provide supporting information on sampling and analytical methods. Examples of such information include environmental conditions, and other material test information for laboratory-based environmental chamber testing and field-based testing in a representative home environment, such as temperature, humidity, chamber ventilation, heating, ventilation, air conditioning (HVAC), leakage in and out of the chamber or home, mixing characteristics, chamber and/or representative home dimensions and characteristics, emissions measurements, measurement methods, computer modeling, post processing methods, product use variations, sample locations, fuel pressure, and fuel composition.

(b) Please provide product testing information or studies characterizing differences in product performance, design, or compliance over time and related impacts on emissions of chemical substances from the gas ranges. If available, provide supporting information on sampling and analytical methods. If available, identify the relevant product safety standard(s) the product met, with revision/edition (*e.g.,* ANSI Z21.1–2000 or other international standards).

(c) Please provide product testing information that explores the impact that using different gas fuel sources has on emitted chemical substances. If available, provide supporting information on sampling and analytical methods.

(d) Please provide research that explores the relationship between emissions from gas ranges and indoor air quality. This includes experimental chamber or observational field studies that reflect environmental air monitoring of chemical substances during and after gas range use and/or modeled estimates of indoor air concentrations based on chamber emission data. If available, provide average and peak levels and supporting information on methods.

(e) Please provide studies that explore the relationship between the use, presence, or emissions from gas ranges and associated human health effects. This includes epidemiological studies that summarize exposures to gas ranges and observed health effects. If available, please provide test methods and raw data as well as the context and examples of the studies.

(f) Please provide summaries of completed or ongoing research that produces information that can be used to evaluate potential associations between elevated exposures or disparate health outcomes and usage of gas ranges over time for vulnerable populations.

(g) Please provide any additional information, not requested above, related to the data sources and approaches CPSC should consider when completing an evaluation of chronic chemical hazards related to gas range use.

Question 3: Please provide information on proposed solutions related to any chronic chemical hazards, exposures, and risks associated with gas range use.

(a) Please provide information related to potential tradeoffs between different hazards (*i.e.,* chemical, fire, electrical, mechanical, or other) associated with the use of gas ranges, electric ranges (including older and newer models), and other large cooking appliances.

(b) Please provide information on existing solutions to reduce chronic chemical hazards associated with gas ranges and other large cooking appliances that have been developed but are not widely used throughout the market. Examples may include safety knobs, burner design, automatic or semi-automatic shut-off valves, or use of efficient externally vented range hoods. Where possible, please indicate cost estimates and why such solutions were not broadly adopted.

(c) Please provide information on technological advances that have been developed, or are underway, or could be developed in the future related to reducing chronic chemical hazards associated with gas ranges and other large cooking appliances (or related equipment) that are helpful for CPSC to consider for improving consumer safety and health. Please be specific and provide cost estimates where possible.

(d) Please provide information related to revision of voluntary standards for gas ranges. This includes data that would inform health-based emission limits for gas ranges. Such information would, for example, link robust and repeatable emissions testing data with estimated indoor air concentrations and toxicity reference values for CO, nitrogen dioxide, and fine particulate matter.

(e) Please provide information relating to the subject of mandatory standards for the sale of range hoods alongside gas ranges. Please provide information on what any such performance standards should be (*e.g.,* efficiency of removal of emitted substances), and the costs and benefits of such requirements.

(f) Please provide information on the effectiveness of different range hoods for reducing emissions and associated indoor air concentrations in air surrounding gas ranges (*i.e.,* personal breathing zone, room of use, etc.).

(g) Please provide information related to potential labeling for gas ranges that could provide information to educate consumers about potential hazards.

(h) Please provide information on indoor air quality (IAQ) in home environments, both related to and separate from gas ranges.

(a) Please provide information regarding inclusion, enforcement, and compliance to any requirements in

building codes or other local or state laws or regulations for exhaust hoods (internally and externally vented) above or near gas ranges.

(j) Please provide information on the costs and effectiveness of any other relevant voluntary or mandatory standards (such as for gas ranges or exhaust hoods found in model building codes).

(k) Please provide any additional information related to chronic hazards associated with gas ranges and proposed solutions to those hazards that CPSC should consider, not requested above.

III. Confidentiality

If you wish to submit confidential information, please follow the instructions in the **ADDRESSES** section above.

Alberta E. Mills,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2023–04554 Filed 3–6–23; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF DEFENSE

Department of the Army

Advisory Committee on Arlington National Cemetery Meeting Notice

AGENCY: Department of the Army, DoD.

ACTION: Notice of open committee meeting.

SUMMARY: The Department of the Army is publishing this notice to announce the following virtual Federal advisory committee meeting of the Advisory Committee on Arlington National Cemetery (ACANC), The Honor Subcommittee, and the Remember and Explore Subcommittee. These meetings are open to the public. For more information, please visit: *http://www.arlingtoncemetery.mil/About/Advisory-Committee-on-Arlington-National-Cemetery/ACANC-Meetings.*

DATES: The Remember and Explore Subcommittee will meet virtually on Wednesday, March 15, 2023 from 12:00 p.m. to 4:00 p.m., Eastern Standard Time. The Honor Subcommittee will meet on Wednesday, 22 March, 2023 from 9 a.m. to 3 p.m., Eastern Standard Time. The full ACANC will meet on Thursday, March 23, 2023 from 9 a.m. to 3 p.m., Eastern Standard Time.

FOR FURTHER INFORMATION CONTACT: Ms. Renea Yates; Designated Federal Official or Mr. Matthew Davis; Alternate Designated Federal Official (DFO) for the ACANC, in writing at Arlington National Cemetery (ANC), Arlington VA 22211, or by email at *matthew.r.davis.civ@army.mil,* or by phone at 1–877–907–8585.

SUPPLEMENTARY INFORMATION: Due to circumstances beyond the control of the Designated Federal Officer, the Remember and Explore Subcommittee of the Advisory Committee on Arlington National Cemetery was unable to provide public notification required by 41 CFR 102–3.150(a) concerning its March 15, 2023 meeting. Accordingly, the Advisory Committee Management Officer for the Department of Defense, pursuant to 41 CFR 102–3.150(b), waives the 15-calendar day notification requirement.

This meeting is being held under the provisions of chapter 10, 5 U.S.C. (commonly known as the Federal Advisory Committee Act or FACA), the Sunshine in the Government Act of 1976 (U.S.C. 552b) and 41 Code of the Federal Regulations (CFR 102–3.150).

Purpose of the Meeting: The primary purpose of the Remember & Explore Subcommittee is to recommend methods to maintain the Tomb of the Unknown Soldier Monument, including the cracks in the large marble sarcophagus, the adjacent marble slabs, and the potential replacement marble stone for the sarcophagus already gifted to the Army; accomplish an independent assessment of requests to place commemorative monuments within ANC; and identify means to capture and convey ANC's history, and improve the quality of visitors' experiences now and for generations to come.

The primary purpose of the Honor Subcommittee is to accomplish an independent assessment of methods to address the long-term future of the Army national cemeteries, including how best to extend the active burials and what ANC should focus on once all available space is used.

The ACANC provides independent advice and recommendations to the Secretary of the Army on ANC, including, but not limited to, cemetery administration, the erection of memorials at the cemetery, and master planning for the cemetery. The Secretary of the Army may act on the ACANC's advice and recommendations.

Agenda: The Remember and Explore Subcommittee will receive updates on the Chaplains Hill Monuments and the National Conference on Ministry in the Armed Forces (NCMAF) proposal; and receive an update on the Army actions to date regarding the Secretary of Defense's Implementation Guidance for the Commission on the Naming of Items of the Department of Defense that Commemorate the Confederate States of America or Any Person Who Served Voluntarily with the Confederate States of America's recommendations regarding the Confederate Memorial.

The Honor Subcommittee will receive an update on the status of the Final Eligibility Criteria Rule; and receive a briefing on the Memorial Avenue Area Development Plan.

The ACANC will receive briefings from each subcommittee chair; receive an operational update from the National Cemeteries Administration; receive a briefing on the Exception to Policy Process for interment at ANC; and receive an information briefing from the 3rd Infantry Regiment and U.S. Army Band on support to ANC.

Public's Accessibility to the Meeting: Pursuant to FACA and 41 CFR 102–3.140 through 102–3.165, this meeting is open to the public.

Procedures for Attendance and Public Comment: Contact Mr. Matthew Davis at via electronic mail, the preferred mode of submission, at the addresses listed in the **FOR FURTHER INFORMATION CONTACT** section to register to attend any of these virtual meetings. Public attendance will be via virtual attendance only. To attend any of these events, submit your full name, organization, email address, and phone number, and which meeting you would like to attend. Upon receipt of this information, a link will be sent to the email address provided which will allow virtual attendance to the event. Requests to attend the meetings must be received by 5:00 p.m. Eastern Standard Time, on Friday, 10 March 2023 (for the Remember and Explore Subcommittee Meeting); and Friday 17 March, 2023 (for the Honor Subcommittee Meeting or the Full ACANC meeting). (ANC will be unable to provide technical assistance to any user experiencing technical difficulties.)

For additional information about public access procedures, contact Mr. Matthew Davis, the Alternate DFO, at the email address or telephone number listed in the **FOR FURTHER INFORMATION CONTACT** section.

Written Comments and Statements: Pursuant to 41 CFR 102–3.105(j) and 102–3.140 and 5 U.S.C. 1009(a)(3), the public or interested organizations may submit written comments or statements to the Subcommittees and/or the ACANC in response to the stated agenda of the open meeting or in regard to the ACANC's Committee's mission in general. Written comments or statements should be submitted to Mr. Matthew Davis, the Alternate DFO, via electronic mail, the preferred mode of submission, at the address listed in the

FOR FURTHER INFORMATION CONTACT section. Each page of the comment or statement must include the author's name, title or affiliation, address, and daytime phone number. Written comments or statements being submitted in response to the agenda set forth in this notice must be received by the ACANC's DFO at least seven business days prior to the meeting to be considered by the ACANC. The ACANC's DFO will review all timely submitted written comments or statements with the ACANC's Chairperson, and ensure the comments are provided to all members of the ACANC before the meeting. Written comments or statements received after this date may not be provided to the ACANC until its next meeting. Pursuant to 41 CFR 102–3.140d, the ACANC is not obligated to allow any member of the public to speak or otherwise address the ACANC during the meeting. Members of the public may be permitted to make verbal comments during these meetings, and if allowed only at the time and in the manner described below. If a member of the public is interested in making a verbal comment at the open meeting, that individual must submit a request, with a brief statement of the subject matter to be addressed by the comment, at least three (3) business days in advance to the ACANC's Alternate DFO, via electronic mail, the preferred mode of submission, at the addresses listed in the **FOR FURTHER INFORMATION CONTACT** section. The ACANC's DFO will log each request, in the order received, and in consultation with the appropriate Chair determine whether the subject matter of each comment is relevant to the missions and/or the topics to be addressed in these public meeting. Members of the public who have requested to make a comment and whose comments have been deemed relevant under the process described above, will be invited to speak in the order in which their requests were received by the ACANC's DFO. The appropriate Chair may allot a specific amount of time for comments.

James W. Satterwhite, Jr.,

Army Federal Register Liaison Officer.

[FR Doc. 2023–04611 Filed 3–6–23; 8:45 am]

BILLING CODE 3711–02–P

DEPARTMENT OF ENERGY

International Energy Agency Meetings

AGENCY: Department of Energy.

ACTION: Notice of meetings.

SUMMARY: The Industry Advisory Board (IAB) to the International Energy Agency (IEA) will meet on March 15, 16, 2023, as a hybrid meeting via webinar and in person, in connection with a joint meeting of the IEA's Standing Group on Emergency Questions (SEQ) and the IEA's Standing Group on the Oil Market (SOM) which is scheduled at the same time via webinar.

DATES: March 15–16, 2023.

ADDRESSES: The location details of the SEQ and SOM webinar meeting are under the control of the IEA Secretariat, located at 9 rue de la Fédération, 75015 Paris, France. The in person meeting will take place at IEA Headquarters, 9 rue de la Fédération, 75015 Paris, France.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Reilly, Assistant General Counsel for International and National Security Programs, Department of Energy, 1000 Independence Avenue SW, Washington, DC 20585, (202) 586–5000.

SUPPLEMENTARY INFORMATION: In accordance with section 252(c)(1)(A)(i) of the Energy Policy and Conservation Act (42 U.S.C. 6272(c)(1)(A)(i)) (EPCA), the following notice of meetings is provided:

A meeting of the Industry Advisory Board (IAB) to the International Energy Agency (IEA) will be held in person and via webinar at the IEA Headquarters, 9 rue de la Fédération, 75015 Paris, commencing at 9:30 a.m., Paris time, on March 15, 2023. The purpose of this notice is to permit attendance by representatives of U.S. company members of the IAB at a meeting of the IEA's Standing Group on Emergency Questions (SEQ), which is scheduled to be held at the same location in person and via webinar at the same time. The IAB will also hold a preparatory meeting among company representatives at the same location at 08:30 a.m. Paris time on March 15, 2023. The agenda for this preparatory meeting is to review the agenda for the SEQ meeting.

The location details of the SEQ meeting are under the control of the IEA Secretariat, located at 9 rue de la Fédération, 75015 Paris, France. The agenda of the SEQ meeting is under the control of the SEQ. It is expected that the SEQ will adopt the following agenda:

1. Adoption of the Agenda
2. Approval of the Summary Record of the 172nd SEQ meeting
3. Ministerial Mandate on oil stockholding
4. Stockholding levels of IEA Member Countries
5. Emergency Response Review of Switzerland
6. Critical Minerals Security—update on ongoing work
7. Mid-term review Lithuania
8. Emergency Response Review of Finland
9. Industry Advisory Board Update
10. Electricity security and market report—update on ongoing work
11. Oral Reports by Administrations
12. Mid-term review the Netherlands
13. Any Other Business

Schedule of ERRs for 2023

Schedule of SEQ & SOM Meetings for 2023/24:

—13–15 June 2023
—14–16 November 2023
—21–22 March 2024 (tentative)
—18–20 June 2024 (tentative)
—19–21 November 2024 (tentative)

A meeting of the Industry Advisory Board (IAB) to the International Energy Agency (IEA) will be held in person and via webinar at the IEA Headquarters, 9 rue de la Fédération, 75015 Paris, commencing at 9:30 a.m., Paris time, on March 16, 2023. The purpose of this notice is to permit attendance by representatives of U.S. company members of the IAB at a joint meeting of the IEA's Standing Group on Emergency Questions (SEQ) and the IEA's Standing Group on the Oil Market (SOM), which is scheduled to be held at the same location in person and via webinar at the same time.

The location details of the SEQ and SOM meeting are under the control of the IEA Secretariat, located at 9 rue de la Fédération, 75015 Paris, France. The agenda of the meeting is under the control of the SEQ and the SOM. It is expected that the SEQ and the SOM will adopt the following agenda:

Welcome by the Chair

New Delegates To Introduce Themselves

1. Adoption of the Agenda
2. Approval of Summary Record of meeting of 16 November 2022
3. Update on the Current Oil Market Situation
4. Update on diesel market outlook
5. Reports on Recent Oil Market and Policy Developments in IEA Countries
6. Update on IEA–OPEC–IEF joint work program
7. Update on the gas market
8. Update on EU embargoes and price cap
9. Assessing Russian oil prices
10. Update on Fossil fuel subsidies/ Methane tracker
11. Chinese demand prospects

12. State of the petrochemical sector
13. Any other business:
Date of next SOM/SEQ meetings: 13–15 June 2023
Close of meeting.

As provided in section 252(c)(1)(A)(ii) of the Energy Policy and Conservation Act (42 U.S.C. 6272(c)(1)(A)(ii)), the meetings of the IAB are open to representatives of members of the IAB and their counsel; representatives of members of the IEA's Standing Group on Emergency Questions and the IEA's Standing Group on the Oil Markets; representatives of the Departments of Energy, Justice, and State, the Federal Trade Commission, the General Accounting Office, Committees of Congress, the IEA, and the European Commission; and invitees of the IAB, the SEQ, the SOM, or the IEA.

Signing Authority: This document of the Department of Energy was signed on March 2, 2023, by Thomas Reilly, Assistant General Counsel for International and National Security Programs, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, March 2, 2023.

Treena V. Garrett,

Federal Register Liaison Officer, U.S. Department of Energy.

[FR Doc. 2023–04653 Filed 3–6–23; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP23–75–000]

ANR Pipeline Company; Notice of Request Under Blanket Authorization and Establishing Intervention and Protest Deadline

Take notice that February 22, 2023, ANR Pipeline Company. (ANR) filed a prior notice request for authorization, in accordance with section 7 of the Natural Gas Act, and Part 157 Sections 157.205 and 157.216 of the Federal Energy Regulatory Commission's (Commission) regulations under the Natural Gas Act and ANR's blanket certificate issued in Docket No. CP82–480–000 for authorization to abandon two injection/withdrawal wells and appurtenances, located in its Loreed Storage Field in Osceola County, Michigan, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Any questions concerning this application should be directed to David Alonzo, Manager, Project Authorizations, 7000 Louisiana Street, Suite 1300, Houston, Texas 77002–2700 at 832–320–5477; or email at *David.Alonzo@tcenergy.com*.

Pursuant to Section 157.9 of the Commission's Rules of Practice and Procedure,[1] within 90 days of this Notice the Commission staff will either: complete its environmental review and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or environmental assessment (EA) for this proposal. The filing of an EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

[1] 18 CFR (Code of Federal Regulations) 157.9.

Public Participation

There are three ways to become involved in the Commission's review of this project: you can file a protest to the project, you can file a motion to intervene in the proceeding, and you can file comments on the project. There is no fee or cost for filing protests, motions to intervene, or comments. The deadline for filing protests, motions to intervene, and comments is 5:00 p.m. Eastern Time on April 29, 2023. How to file protests, motions to intervene, and comments is explained below.

Protests

Pursuant to section 157.205 of the Commission's regulations under the NGA,[2] any person [3] or the Commission's staff may file a protest to the request. If no protest is filed within the time allowed or if a protest is filed and then withdrawn within 30 days after the allowed time for filing a protest, the proposed activity shall be deemed to be authorized effective the day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request for authorization will be considered by the Commission.

Protests must comply with the requirements specified in section 157.205(e) of the Commission's regulations,[4] and must be submitted by the protest deadline, which is April 29, 2023. A protest may also serve as a motion to intervene so long as the protestor states it also seeks to be an intervenor.

Interventions

Any person has the option to file a motion to intervene in this proceeding. Only intervenors have the right to request rehearing of Commission orders issued in this proceeding and to subsequently challenge the Commission's orders in the U.S. Circuit Courts of Appeal.

To intervene, you must submit a motion to intervene to the Commission in accordance with Rule 214 of the Commission's Rules of Practice and Procedure [5] and the regulations under the NGA [6] by the intervention deadline for the project, which is April 29, 2023. As described further in Rule 214, your motion to intervene must state, to the extent known, your position regarding

[2] 18 CFR 157.205.

[3] Persons include individuals, organizations, businesses, municipalities, and other entities. 18 CFR 385.102(d).

[4] 18 CFR 157.205(e).

[5] 18 CFR 385.214.

[6] 18 CFR 157.10.

the proceeding, as well as your interest in the proceeding. For an individual, this could include your status as a landowner, ratepayer, resident of an impacted community, or recreationist. You do not need to have property directly impacted by the project in order to intervene. For more information about motions to intervene, refer to the FERC website at *https://www.ferc.gov/how-guides*.

All timely, unopposed motions to intervene are automatically granted by operation of Rule 214(c)(1). Motions to intervene that are filed after the intervention deadline are untimely and may be denied. Any late-filed motion to intervene must show good cause for being late and must explain why the time limitation should be waived and provide justification by reference to factors set forth in Rule 214(d) of the Commission's Rules and Regulations. A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies (paper or electronic) of all documents filed by the applicant and by all other parties.

Comments

Any person wishing to comment on the project may do so. The Commission considers all comments received about the project in determining the appropriate action to be taken. To ensure that your comments are timely and properly recorded, please submit your comments on or before April 29, 2023. The filing of a comment alone will not serve to make the filer a party to the proceeding. To become a party, you must intervene in the proceeding.

How To File Protests, Interventions, and Comments

There are two ways to submit protests, motions to intervene, and comments. In both instances, please reference the Project docket number CP23–75–000 in your submission.

(1) You may file your protest, motion to intervene, and comments by using the Commission's eFiling feature, which is located on the Commission's website (*www.ferc.gov)* under the link to Documents and Filings. New eFiling users must first create an account by clicking on ''eRegister.'' You will be asked to select the type of filing you are making; first select General'' and then select ''Protest'', ''Intervention'', or ''Comment on a Filing''; or [7]

(2) You can file a paper copy of your submission by mailing it to the address below. Your submission must reference the Project docket number CP23–75–000.

To mail via USPS, use the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426

To send via any other courier, use the following address:, Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852

The Commission encourages electronic filing of submissions (option 1 above) and has eFiling staff available to assist you at (202) 502–8258 or *FERCOnlineSupport@ferc.gov.*

Protests and motions to intervene must be served to the applicant by mail to: David Alonzo, Manager, Project Authorizations, 7000 Louisiana Street, Suite 1300, Houston, Texas 77002–2700 or by email (with a link to the document) at *david.alonzo@tcenergy.com.*

Any subsequent submissions by an intervenor must be served on the applicant and all other parties to the proceeding. Contact information for parties can be downloaded from the service list at the eService link on FERC Online.

Tracking the Proceeding

Throughout the proceeding, additional information about the project will be available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC website at *www.ferc.gov* using the ''eLibrary'' link as described above. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. For more information and to register, go to *https://www.ferc.gov/ferc-online/overview.*

Dated: February 28, 2023.

Kimberly D. Bose,

Secretary.

[FR Doc. 2023–04557 Filed 3–6–23; 8:45 am]

BILLING CODE 6717–01–P

[7] Additionally, you may file your comments electronically by using the eComment feature, which is located on the Commission's website at *www.ferc.gov* under the link to Documents and Filings. Using eComment is an easy method for interested persons to submit brief, text-only comments on a project.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14552–003]

St. Anthony Hydro, LLC; Notice of Intent To File License Application, Filing of Pre-Application Document, and Approving Use of the Traditional Licensing Process

a. *Type of Filing:* Notice of Intent to File License Application and Request to Use the Traditional Licensing Process.

b. *Project No.:* 14552–003.

c. *Date Filed:* January 3, 2023.

d. *Submitted by:* St. Anthony Hydro, LLC.

e. *Name of Project:* St. Anthony Hydroelectric Project.

f. *Location:* On the Henry's Fork of the Snake River, in Fremont County, Idaho. No federal lands are occupied by the project works or located within the project boundary.

g. *Filed Pursuant to:* 18 CFR 5.3 of the Commission's regulations.

h. *Potential Applicant Contact:* Peter Josten, GeoSense, LLC, 2742 Saint Charles Ave., Idaho Falls, ID 83404; (208) 339–3542; email—*peter.gsense@gmail.com.*

i. *FERC Contact:* John Matkowski at (202) 502–8576; or email at *john.matkowski@ferc.gov.*

j. St. Anthony Hydro, LLC (St. Anthony Hydro) filed its request to use the Traditional Licensing Process on January 3, 2023. St. Anthony Hydro provided public notice of its request on January 6, 2023. In a letter dated February 27, 2023, the Director of the Division of Hydropower Licensing approved St. Anthony Hydro's request to use the Traditional Licensing Process.

k. With this notice, we are initiating informal consultation with the U.S. Fish and Wildlife Service and NOAA Fisheries under section 7 of the Endangered Species Act and the joint agency regulations thereunder at 50 CFR part 402; and NOAA Fisheries under section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act and implementing regulations at 50 CFR 600.920. We are also initiating consultation with the Idaho State Historic Preservation Officer, as required by section 106, National Historic Preservation Act, and the implementing regulations of the Advisory Council on Historic Preservation at 36 CFR 800.2.

l. St. Anthony Hydro filed a Pre-Application Document (PAD; including a proposed process plan and schedule) with the Commission, pursuant to 18

CFR 5.6 of the Commission's regulations.

m. A copy of the PAD may be viewed on the Commission's website (*http://www.ferc.gov*), using the ''eLibrary'' link. Enter the docket number, excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY).

n. The licensee states its unequivocal intent to submit an application for a subsequent license for Project No. P–14552. Pursuant to 18 CFR 16.20 each application for a subsequent license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by December 31, 2025.

o. Register online at *https://ferconline.ferc.gov/FERCOnline.aspx* to be notified via email of new filing and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Dated: February 28, 2023.

Kimberly D. Bose,

Secretary.

[FR Doc. 2023–04559 Filed 3–6–23; 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 & Oil Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: PR23–35–000.

Applicants: Enable Oklahoma Intrastate Transmission, LLC.

Description: § 284.123(g) Rate Filing: Enable Revised Fuel Percentages April 1, 2023–March 31, 2024 to be effective 4/1/2023.

Filed Date: 2/28/23.

Accession Number: 20230228–5226.

Comment Date: 5 p.m. ET 3/21/23.

284.123(g) Protest: 5 p.m. ET 5/1/23.

Docket Numbers: PR23–36–000.

Applicants: Enable Oklahoma Intrastate Transmission, LLC.

Description: § 284.123(g) Rate Filing: Enable Revised Fuel Percentages April 1, 2023-March 31, 2024 to be effective 4/1/2023.

Filed Date: 3/1/23.

Accession Number: 20230301–5002.

Comment Date: 5 p.m. ET 3/22/23.

284.123(g) Protest: 5 p.m. ET 5/1/23.

Docket Numbers: PR23–37–000.

Applicants: Valley Crossing Pipeline, LLC.

Description: § 284.123 Rate Filing: VCP Address Change Filing to be effective 3/1/2023.

Filed Date: 3/1/23.

Accession Number: 20230301–5049.

Comment Date: 5 p.m. ET 3/22/23.

Docket Numbers: RP23–494–000.

Applicants: El Paso Natural Gas Company, L.L.C.

Description: § 4(d) Rate Filing: Non-Conforming Agreements Update (SRP 2023) to be effective 4/1/2023.

Filed Date: 2/28/23.

Accession Number: 20230228–5214.

Comment Date: 5 p.m. ET 3/13/23.

Docket Numbers: RP23–495–000.

Applicants: LA Storage, LLC.

Description: § 4(d) Rate Filing: LA Storage 2023 Annual Adjustment of Fuel Retainage Percenta to be effective 4/1/2023.

Filed Date: 2/28/23.

Accession Number: 20230228–5219.

Comment Date: 5 p.m. ET 3/13/23.

Docket Numbers: RP23–496–000.

Applicants: High Island Offshore System, L.L.C.

Description: 2022 Annual Fuel Tracker filing of High Island Offshore System, LLC under RP23–496.

Filed Date: 2/28/23.

Accession Number: 20230228–5233.

Comment Date: 5 p.m. ET 3/13/23.

Docket Numbers: RP23–497–000.

Applicants: Midcontinent Express Pipeline LLC.

Description: § 4(d) Rate Filing: MEP Cashout Filing Feb 2023 to be effective 4/1/2023.

Filed Date: 2/28/23.

Accession Number: 20230228–5234.

Comment Date: 5 p.m. ET 3/13/23.

Docket Numbers: RP23–498–000.

Applicants: Columbia Gulf Transmission, LLC.

Description: § 4(d) Rate Filing: TRA 2023 to be effective 4/1/2023.

Filed Date: 2/28/23.

Accession Number: 20230228–5264.

Comment Date: 5 p.m. ET 3/13/23.

Docket Numbers: RP23–499–000.

Applicants: Golden Pass Pipeline LLC.

Description: § 4(d) Rate Filing: GPPL Retainage Report for 2023 to be effective 4/1/2023.

Filed Date: 2/28/23.

Accession Number: 20230228–5276.

Comment Date: 5 p.m. ET 3/13/23.

Docket Numbers: RP23–500–000.

Applicants: Tennessee Gas Pipeline Company, L.L.C.

Description: § 4(d) Rate Filing: Volume No. 2—Citadel Energy Marketing, LLC SP378772 to be effective 3/1/2023.

Filed Date: 2/28/23.

Accession Number: 20230228–5279.

Comment Date: 5 p.m. ET 3/13/23.

Docket Numbers: RP23–501–000.

Applicants: Columbia Gas Transmission, LLC.

Description: § 4(d) Rate Filing: EPCA 2023 to be effective 4/1/2023.

Filed Date: 2/28/23.

Accession Number: 20230228–5302.

Comment Date: 5 p.m. ET 3/13/23.

Docket Numbers: RP23–502–000.

Applicants: Columbia Gas Transmission, LLC.

Description: § 4(d) Rate Filing: TCRA 2023 to be effective 4/1/2023.

Filed Date: 2/28/23.

Accession Number: 20230228–5303.

Comment Date: 5 p.m. ET 3/13/23.

Docket Numbers: RP23–503–000.

Applicants: Columbia Gas Transmission, LLC.

Description: § 4(d) Rate Filing: RAM 2023 to be effective 4/1/2023.

Filed Date: 2/28/23.

Accession Number: 20230228–5308.

Comment Date: 5 p.m. ET 3/13/23.

Docket Numbers: RP23–504–000.

Applicants: TransCameron Pipeline, LLC.

Description: Annual Report of Operational Purchases and Sales of TransCameron Pipeline, LLC.

Filed Date: 2/28/23.

Accession Number: 20230228–5349.

Comment Date: 5 p.m. ET 3/13/23.

Docket Numbers: RP23–505–000.

Applicants: WBI Energy Transmission, Inc.

Description: § 4(d) Rate Filing: 2023 Negotiated and Non-Conforming SA ONEOK FT–1833 to be effective 4/1/2023.

Filed Date: 3/1/23.

Accession Number: 20230301–5006.

Comment Date: 5 p.m. ET 3/13/23.

Docket Numbers: RP23–506–000.

Applicants: WBI Energy Transmission, Inc.

Description: § 4(d) Rate Filing: 2023 Annual Fuel & Electric Power Reimbursement Adjustment to be effective 4/1/2023.

Filed Date: 3/1/23.

Accession Number: 20230301–5008.

Comment Date: 5 p.m. ET 3/13/23.

Docket Numbers: RP23–507–000.

Applicants: WBI Energy Transmission, Inc.

Description: § 4(d) Rate Filing: 2023 Fuel and Electric Power Reimbursement Adjustment Provision to be effective 4/1/2023.

Filed Date: 3/1/23.
Accession Number: 20230301–5009.
Comment Date: 5 p.m. ET 3/13/23.
Docket Numbers: RP23–508–000.
Applicants: Texas Eastern Transmission, LP.
Description: § 4(d) Rate Filing: Negotiated Rate—Sequent K911825 to be effective 4/1/2023.
Filed Date: 3/1/23.
Accession Number: 20230301–5014.
Comment Date: 5 p.m. ET 3/13/23.
Docket Numbers: RP23–509–000.
Applicants: High Island Offshore System, L.L.C.
Description: § 4(d) Rate Filing: Storm Damage Surcharge 2023 to be effective 4/1/2023.
Filed Date: 3/1/23.
Accession Number: 20230301–5015.
Comment Date: 5 p.m. ET 3/13/23.
Docket Numbers: RP23–510–000.
Applicants: NEXUS Gas Transmission, LLC.
Description: § 4(d) Rate Filing: Negotiated Rates—Various Releases eff 3–1–23 to be effective 3/1/2023.
Filed Date: 3/1/23.
Accession Number: 20230301–5018.
Comment Date: 5 p.m. ET 3/13/23.
Docket Numbers: RP23–511–000.
Applicants: Gulf South Pipeline Company, LLC.
Description: § 4(d) Rate Filing: Amendment to Neg Rate Agmt (Southern 53174) to be effective 3/1/2023.
Filed Date: 3/1/23.
Accession Number: 20230301–5021.
Comment Date: 5 p.m. ET 3/13/23.
Docket Numbers: RP23–512–000.
Applicants: Gulf South Pipeline Company, LLC.
Description: § 4(d) Rate Filing: Cap Rel Neg Rate Agmts (Osaka 46429 to Spotlight 56072, Texla 56075) to be effective 3/1/2023.
Filed Date: 3/1/23.
Accession Number: 20230301–5022.
Comment Date: 5 p.m. ET 3/13/23.
Docket Numbers: RP23–513–000.
Applicants: Florida Gas Transmission Company, LLC.
Description: § 4(d) Rate Filing: Fuel Filing on 3–1–2023 to be effective 4/1/2023.
Filed Date: 3/1/23.
Accession Number: 20230301–5024.
Comment Date: 5 p.m. ET 3/13/23.
Docket Numbers: RP23–514–000.
Applicants: Panhandle Eastern Pipe Line Company, LP.
Description: § 4(d) Rate Filing: Fuel Filing on 3–1–23 to be effective 4/1/2023.
Filed Date: 3/1/23.
Accession Number: 20230301–5026.
Comment Date: 5 p.m. ET 3/13/23.
Docket Numbers: RP23–515–000.
Applicants: Trunkline Gas Company, LLC.
Description: § 4(d) Rate Filing: Fuel Filing on 3–1–23 to be effective 4/1/2023.
Filed Date: 3/1/23.
Accession Number: 20230301–5029.
Comment Date: 5 p.m. ET 3/13/23.
Docket Numbers: RP23–516–000.
Applicants: Rover Pipeline LLC.
Description: § 4(d) Rate Filing: Fuel Filing on 3–1–23 to be effective 4/1/2023.
Filed Date: 3/1/23.
Accession Number: 20230301–5032.
Comment Date: 5 p.m. ET 3/13/23.
Docket Numbers: RP23–517–000.
Applicants: Rover Pipeline LLC.
Description: Compliance filing: Flow Through of Cash-Out Penalty Revenues filed on 3–1–23 to be effective N/A.
Filed Date: 3/1/23.
Accession Number: 20230301–5035.
Comment Date: 5 p.m. ET 3/13/23.
Docket Numbers: RP23–518–000.
Applicants: Cheniere Corpus Christi Pipeline, LP.
Description: § 4(d) Rate Filing: CCPL 2023 Retainage Filing to be effective 4/1/2023.
Filed Date: 3/1/23.
Accession Number: 20230301–5036.
Comment Date: 5 p.m. ET 3/13/23.
Docket Numbers: RP23–519–000.
Applicants: Texas Eastern Transmission, LP.
Description: § 4(d) Rate Filing: Negotiated Rates—Con Ed to Direct En 8981919 to be effective 3/1/2023.
Filed Date: 3/1/23.
Accession Number: 20230301–5038.
Comment Date: 5 p.m. ET 3/13/23.
Docket Numbers: RP23–520–000.
Applicants: MarkWest Pioneer, L.L.C.
Description: § 4(d) Rate Filing: Quarterly Fuel Adjustment Filing to be effective 4/1/2023.
Filed Date: 3/1/23.
Accession Number: 20230301–5040.
Comment Date: 5 p.m. ET 3/13/23.
Docket Numbers: RP23–521–000.
Applicants: KPC Pipeline, LLC.
Description: § 4(d) Rate Filing: Fuel Reimbursement Adjustment to be effective 4/1/2023.
Filed Date: 3/1/23.
Accession Number: 20230301–5041.
Comment Date: 5 p.m. ET 3/13/23.
Docket Numbers: RP23–522–000.
Applicants: Tennessee Gas Pipeline Company, L.L.C.
Description: § 4(d) Rate Filing: TGP 2023 Fuel Tracker Filing Docket No RP23- to be effective 4/1/2023.
Filed Date: 3/1/23.
Accession Number: 20230301–5042.
Comment Date: 5 p.m. ET 3/13/23.
Docket Numbers: RP23–523–000.
Applicants: Transcontinental Gas Pipe Line Company, LLC.
Description: § 4(d) Rate Filing: Annual Electric Power Tracker Filing Effective April 1, 2023 to be effective 4/1/2023.
Filed Date: 3/1/23.
Accession Number: 20230301–5044.
Comment Date: 5 p.m. ET 3/13/23.
Docket Numbers: RP23–524–000.
Applicants: Columbia Gas Transmission, LLC.
Description: § 4(d) Rate Filing: CCRM 2023 to be effective 4/1/2023.
Filed Date: 3/1/23.
Accession Number: 20230301–5057.
Comment Date: 5 p.m. ET 3/13/23.
Docket Numbers: RP23–525–000.
Applicants: Cheniere Creole Trail Pipeline, L.P.
Description: § 4(d) Rate Filing: Cheniere Creole Trail Retainage Filing and Housekeeping to be effective 4/1/2023.
Filed Date: 3/1/23.
Accession Number: 20230301–5058.
Comment Date: 5 p.m. ET 3/13/23.
Docket Numbers: RP23–526–000.
Applicants: Tallgrass Interstate Gas Transmission, LLC.
Description: § 4(d) Rate Filing: TIGT 2023–03–01 Fuel and L&U Reimbursement and Power Cost Tracker to be effective 4/1/2023.
Filed Date: 3/1/23.
Accession Number: 20230301–5067.
Comment Date: 5 p.m. ET 3/13/23.
Docket Numbers: RP23–527–000.
Applicants: Equitrans, L.P.
Description: § 4(d) Rate Filing: Negotiated Rate Capacity Release Agreements—3/1/2023 to be effective 3/1/2023.
Filed Date: 3/1/23.
Accession Number: 20230301–5073.
Comment Date: 5 p.m. ET 3/13/23.
Docket Numbers: RP23–528–000.
Applicants: Enable Gas Transmission, LLC.
Description: § 4(d) Rate Filing: NRA Filing—WM Renewable to be effective 3/1/2023.
Filed Date: 3/1/23.
Accession Number: 20230301–5076.
Comment Date: 5 p.m. ET 3/13/23.
Docket Numbers: RP23–529–000.
Applicants: Iroquois Gas Transmission System, L.P.
Description: § 4(d) Rate Filing: 3.1.23 Negotiated Rates—Hartree Partners, LP R–7090–09 to be effective 4/1/2023.
Filed Date: 3/1/23.
Accession Number: 20230301–5100.
Comment Date: 5 p.m. ET 3/13/23.
Docket Numbers: RP23–530–000.

Applicants: Cheniere Corpus Christi Pipeline, LP.
Description: § 4(d) Rate Filing: Cheniere Corpus Christi 2023 EPC Filing to be effective 4/1/2023.
Filed Date: 3/1/23.
Accession Number: 20230301–5112.
Comment Date: 5 p.m. ET 3/13/23.
Docket Numbers: RP23–531–000.
Applicants: Iroquois Gas Transmission System, L.P.
Description: § 4(d) Rate Filing: 3.1.23 Negotiated Rates—Emera Energy Services, Inc. R–2715–56 to be effective 4/1/2023.
Filed Date: 3/1/23.
Accession Number: 20230301–5114.
Comment Date: 5 p.m. ET 3/13/23.
Docket Numbers: RP23–532–000.
Applicants: Iroquois Gas Transmission System, L.P.
Description: § 4(d) Rate Filing: 3.1.23 Negotiated Rates—Emera Energy Services, Inc. R–2715–55 to be effective 4/1/2023.
Filed Date: 3/1/23.
Accession Number: 20230301–5118.
Comment Date: 5 p.m. ET 3/13/23.
Docket Numbers: RP23–533–000.
Applicants: Iroquois Gas Transmission System, L.P.
Description: § 4(d) Rate Filing: 3.1.23 Negotiated Rates—Castleton Commodities Merchant Trading L.P. R–4010–06 to be effective 4/1/2023.
Filed Date: 3/1/23.
Accession Number: 20230301–5123.
Comment Date: 5 p.m. ET 3/13/23.
Docket Numbers: RP23–534–000.
Applicants: Iroquois Gas Transmission System, L.P.
Description: § 4(d) Rate Filing: 3.1.23 Negotiated Rates—Citadel Energy Marketing LLC R–7705–18 to be effective 4/1/2023.
Filed Date: 3/1/23.
Accession Number: 20230301–5126.
Comment Date: 5 p.m. ET 3/13/23.
Docket Numbers: RP23–535–000.
Applicants: Iroquois Gas Transmission System, L.P.
Description: § 4(d) Rate Filing: 3.1.23 Negotiated Rates—Citadel Energy Marketing LLC R–7705–19 to be effective 4/1/2023.
Filed Date: 3/1/23.
Accession Number: 20230301–5129.
Comment Date: 5 p.m. ET 3/13/23.

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.

Filings in Existing Proceedings

Docket Numbers: RP11–1591–002.
Applicants: Golden Pass Pipeline LLC.
Description: Compliance filing: Golden Pass Pipeline LLC 2023 Operational Purchase and Sales to be effective N/A.
Filed Date: 2/28/23.
Accession Number: 20230228–5310.
Comment Date: 5 p.m. ET 3/13/23.

Any person desiring to protest in any the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: March 1, 2023.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2023–04636 Filed 3–6–23; 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 Complaints and Compliance filings in EL Dockets:

Docket Numbers: EL23–41–000.
Applicants: arGo Partners GP LLC.
Description: Petition for Declaratory Order of arGo Partners GP LLC.
Filed Date: 2/16/23.
Accession Number: 20230216–5243.
Comment Date: 5 p.m. ET 3/20/23
Docket Numbers: EL23–42–000.
Applicants: Soltage Executive Employees, LLC.
Description: Petition for Declaratory Order of Soltage Executive Employees, LLC.
Filed Date: 2/16/23.
Accession Number: 20230216–5244.
Comment Date: 5 p.m. ET 3/20/23.
Docket Numbers: EL23–43–000.
Applicants: arGo Partners GP LLC.
Description: Petition for Declaratory Order of arGo Partners GP LLC.
Filed Date: 2/16/23.
Accession Number: 20230216–5245.
Comment Date: 5 p.m. ET 3/20/23.
Docket Numbers: EL23–44–000.
Applicants: Kansas Electric Power Cooperative, Inc., *Kansas Municipal Energy Agency, and Kansas Power Pool* v. *Evergy Kansas Central, Inc.*
Description: Complaint of Kansas Electric Power Cooperative, Inc., Kansas Municipal Energy Agency, and Kansas Power Pool.
Filed Date: 2/27/23.
Accession Number: 20230227–5284.
Comment Date: 5 p.m. ET 3/20/23.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER22–2983–002.
Applicants: Ohio Power Company.
Description: Compliance filing: Ohio Power MBR Revision to be effective 1/19/2023.
Filed Date: 2/28/23.
Accession Number: 20230228–5269.
Comment Date: 5 p.m. ET 3/21/23.
Docket Numbers: ER23–824–001.
Applicants: PJM Interconnection, L.L.C.
Description: Tariff Amendment: Amendment of Amended ISA, SA No. 5999; Queue No. AC2–012 in Docket No. ER23–824 to be effective 3/13/2023.
Filed Date: 3/1/23.
Accession Number: 20230301–5251.
Comment Date: 5 p.m. ET 3/22/23.
Docket Numbers: ER23–1186–000.
Applicants: Conway Corporation, City Water and Light Plant of the City of Jonesboro, West Memphis Utilities Commission.
Description: Request for Limited Waiver, et al. of Conway Corporation, *et al.*
Filed Date: 2/24/23.
Accession Number: 20230224–5280.
Comment Date: 5 p.m. ET 3/6/23.
Docket Numbers: ER23–1196–000.
Applicants: Nevada Power Company, Sierra Pacific Power Company.
Description: Notice of Termination Filing of Nevada Power Company *et al.*
Filed Date: 2/24/23.
Accession Number: 20230224–5348.
Comment Date: 5 p.m. ET 3/17/23.
Docket Numbers: ER23–1197–000.
Applicants: New England Power Pool Participants Committee.
Description: § 205(d) Rate Filing: Mar 2023 Membership Filing to be effective 2/1/2023.
Filed Date: 2/28/23.
Accession Number: 20230228–5299.
Comment Date: 5 p.m. ET 3/21/23.
Docket Numbers: ER23–1198–000.
Applicants: Entergy Arkansas, LLC.
Description: § 205(d) Rate Filing: EAL Standby Availability Service Agreement to be effective 3/1/2023.

Filed Date: 2/28/23.
Accession Number: 20230228–5315.
Comment Date: 5 p.m. ET 3/21/23.
Docket Numbers: ER23–1199–000.
Applicants: East Texas Electric Cooperative, Inc.
Description: Request for Limited Waiver, et al. of East Texas Electric Cooperative, Inc.
Filed Date: 2/27/23.
Accession Number: 20230227–5291.
Comment Date: 5 p.m. ET 3/9/23.
Docket Numbers: ER23–1201–000.
Applicants: MC Project Company LLC.
Description: § 205(d) Rate Filing: Proposed Revisions to Reactive Service Rate Schedule to be effective 6/1/2023.
Filed Date: 3/1/23.
Accession Number: 20230301–5053.
Comment Date: 5 p.m. ET 3/22/23.
Docket Numbers: ER23–1202–000.
Applicants: Basin Electric Power Cooperative.
Description: § 205(d) Rate Filing: Submission of Revised Missouri Basin Power Project Participation Agreement to be effective 5/1/2023.
Filed Date: 3/1/23.
Accession Number: 20230301–5054.
Comment Date: 5 p.m. ET 3/22/23.
Docket Numbers: ER23–1203–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Original WMPA, Service Agreement No. 6790; Queue No. AF2–175 to be effective 1/30/2023.
Filed Date: 3/1/23.
Accession Number: 20230301–5059.
Comment Date: 5 p.m. ET 3/22/23.
Docket Numbers: ER23–1204–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Original ISA, Service Agreement No. 6812; Queue No. AE1–146 to be effective 1/31/2023.
Filed Date: 3/1/23.
Accession Number: 20230301–5070.
Comment Date: 5 p.m. ET 3/22/23.
Docket Numbers: ER23–1205–000.
Applicants: FirstEnergy Service Company, Mid-Atlantic Interstate Transmission, LLC, PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: FirstEnergy Service Company submits tariff filing per 35.13(a)(2)(iii: MAIT submits one Engineering and Construction Agreement, SA No. 6631 to be effective 5/1/2023.
Filed Date: 3/1/23.
Accession Number: 20230301–5139.
Comment Date: 5 p.m. ET 3/22/23.
Docket Numbers: ER23–1206–000.
Applicants: Duke Energy Florida, LLC, Duke Energy Progress, LLC, Duke Energy Carolinas, LLC.
Description: § 205(d) Rate Filing: Duke Energy Florida, LLC submits tariff filing per 35.13(a)(2)(iii: Revisions to Formula Rate Templates (Order No. 864) to be effective 4/29/2023.
Filed Date: 3/1/23.
Accession Number: 20230301–5168.
Comment Date: 5 p.m. ET 3/22/23.
Docket Numbers: ER23–1207–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: 1636R27 Kansas Electric Power Cooperative, Inc. NITSA and NOA to be effective 2/1/2023.
Filed Date: 3/1/23.
Accession Number: 20230301–5192.
Comment Date: 5 p.m. ET 3/22/23.
Docket Numbers: ER23–1208–000.
Applicants: North Central Valley Energy Storage, LLC.
Description: Baseline eTariff Filing: North Central Valley Energy Storage, LLC—MBR Application to be effective 5/1/2023.
Filed Date: 3/1/23.
Accession Number: 20230301–5224.
Comment Date: 5 p.m. ET 3/22/23.

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: March 1, 2023.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2023–04635 Filed 3–6–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM98–1–000]

Records Governing Off-the-Record Communications; Public Notice

This constitutes notice, in accordance with 18 CFR 385.2201(b), of the receipt of prohibited and exempt off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive a prohibited or exempt off-the-record communication relevant to the merits of a contested proceeding, to deliver to the Secretary of the Commission, a copy of the communication, if written, or a summary of the substance of any oral communication.

Prohibited communications are included in a public, non-decisional file associated with, but not a part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become a part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such a request only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication shall serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications are included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e)(1)(v).

The following is a list of off-the-record communications recently received by the Secretary of the Commission. This filing may be viewed on the Commission's website at *http://www.ferc.gov* using the eLibrary link. Enter the docket number, excluding the last three digits, in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

PROHIBITED

Docket Nos.	File date	Presenter or requester
1. CP22–2–000	2–14–2023	FERC Staff [1]
2. CP22–2–000	2–14–2023	FERC Staff [2]
3. CP22–2–000	2–14–2023	FERC Staff [3]
4. CP22–2–000	2–14–2023	FERC Staff [4]
5. CP22–2–000	2–14–2023	FERC Staff [5]
6. CP22–2–000	2–14–2023	FERC Staff [6]
7. CP22–2–000	2–14–2023	FERC Staff [7]
8. CP22–2–000	2–14–2023	FERC Staff [8]
9. CP22–2–000	2–14–2023	FERC Staff [9]
10. CP22–2–000	2–14–2023	FERC Staff [10]
11. CP22–2–000	2–14–2023	FERC Staff [11]
12. CP22–2–000	2–14–2023	FERC Staff [12]
13. CP22–2–000	2–14–2023	FERC Staff [13]
14. CP22–2–000	2–14–2023	FERC Staff [14]
15. CP22–2–000	2–14–2023	FERC Staff [15]
16. CP22–2–000	2–14–2023	FERC Staff [16]
17. CP22–2–000	2–14–2023	FERC Staff [17]
18. CP22–2–000	2–14–2023	FERC Staff [18]
19. CP22–2–000	2–14–2023	FERC Staff [19]
20. CP22–2–000	2–14–2023	FERC Staff [20]
21. CP22–2–000	2–14–2023	FERC Staff [21]
22. CP22–2–000	2–14–2023	FERC Staff [22]
23. CP22–2–000	2–14–2023	FERC Staff [23]
24. CP22–2–000	2–14–2023	FERC Staff [24]
25. CP22–2–000	2–14–2023	FERC Staff [25]
26. CP22–2–000	2–14–2023	FERC Staff [26]
27. CP22–2–000	2–14–2023	FERC Staff [27]
28. CP22–2–000	2–14–2023	FERC Staff [28]
29. CP22–2–000	2–23–2023	FERC Staff [29]
30. CP22–2–000	2–23–2023	FERC Staff [30]
31. CP22–2–000	2–23–2023	FERC Staff [31]
32. CP22–2–000	2–23–2023	FERC Staff [32]
33. CP22–2–000	2–23–2023	FERC Staff [33]
34. CP22–2–000	2–23–2023	FERC Staff [34]
35. CP22–2–000	2–23–2023	FERC Staff [35]
36. CP22–2–000	2–23–2023	FERC Staff [36]
37. CP22–2–000	2–23–2023	FERC Staff [37]
38. CP22–2–000	2–23–2023	FERC Staff [38]
39. CP22–2–000	2–23–2023	FERC Staff [39]
40. CP22–2–000	2–23–2023	FERC Staff [40]
41. CP22–2–000	2–23–2023	FERC Staff [41]
42. CP22–2–000	2–23–2023	FERC Staff [42]
43. CP22–2–000	2–23–2023	FERC Staff [43]
44. CP22–2–000	2–23–2023	FERC Staff [44]
45. CP22–2–000	2–23–2023	FERC Staff [45]
46. CP22–2–000	2–23–2023	FERC Staff [46]
47. CP22–2–000	2–23–2023	FERC Staff [47]
48. CP22–2–000	2–23–2023	FERC Staff [48]
49. CP22–2–000	2–23–2023	FERC Staff [49]
50. CP22–2–000	2–23–2023	FERC Staff [50]
51. CP22–2–000	2–23–2023	FERC Staff [51]
52. CP22–2–000	2–23–2023	FERC Staff [52]
53. CP22–2–000	2–23–2023	FERC Staff [53]
54. CP22–2–000	2–23–2023	FERC Staff [54]
55. CP22–2–000	2–23–2023	FERC Staff [55]

[1] Emailed comments dated 2/14/23 from Robert A. Mertz.
[2] Emailed comments dated 2/14/23 from Benjamin Christy.
[3] Emailed comments dated 2/14/23 from G Weshinskey.
[4] Emailed comments dated 2/14/23 from Christine Holmes.
[5] Emailed comments dated 2/14/23 from Robynne Limoges.
[6] Emailed comments dated 2/14/23 from Karl Steudel.
[7] Emailed comments dated 2/14/23 from Paul Lufkin.
[8] Emailed comments dated 2/14/23 from Laurel Facey.
[9] Emailed comments dated 2/14/23 from Toni Reading.
[10] Emailed comments dated 2/14/23 from Pat Mace.
[11] Emailed comments dated 2/14/23 from Eleanor Weisman.
[12] Emailed comments dated 2/14/23 from Richard Stern.
[13] Emailed comments dated 2/14/23 from Nora Cloud.
[14] Emailed comments dated 2/14/23 from Ken Dolsky.
[15] Emailed comments dated 2/14/23 from Diana Covington.
[16] Emailed comments dated 2/14/23 from Peter Sakura.
[17] Emailed comments dated 2/14/23 from Carlin Black.
[18] Emailed comments dated 2/14/23 from an individual.

[19] Emailed comments dated 2/14/23 from Kathy Spera.
[20] Emailed comments dated 2/14/23 from Joe Pfister.
[21] Emailed comments dated 2/14/23 from Michael Laird.
[22] Emailed comments dated 2/14/23 from Jason Miller.
[23] Emailed comments dated 2/14/23 from Linda Hagedorn.
[24] Emailed comments dated 2/14/23 from Gail Fleischaker.
[25] Emailed comments dated 2/14/23 from Lin Deats.
[26] Emailed comments dated 2/14/23 from Cindy Capra.
[27] Emailed comments dated 2/14/23 from Toddy Perryman.
[28] Emailed comments dated 2/14/23 from Sven Sorge.
[29] Emailed comments dated 2/14/23 from Steve Luongo.
[30] Emailed comments dated 2/14/23 from Sally Small.
[31] Emailed comments dated 2/14/23 from Ron Mittan and Terry Garrett.
[32] Emailed comments dated 2/14/23 from Roderick F. Gregory.
[33] Emailed comments dated 2/19/23 from Rebecca Canright.
[34] Emailed comments dated 2/14/23 from Pat Mace.
[35] Emailed comments dated 2/14/23 from Pascal Molineaux.
[36] Emailed comments dated 2/14/23 from Nora Cloud.
[37] Emailed comments dated 2/15/23 from Nisha Gudal.
[38] Emailed comments dated 2/14/23 from Michael Laird.
[39] Emailed comments dated 2/14/23 from Liz Campbell.
[40] Emailed comments dated 2/14/23 from Linda Croxson.
[41] Emailed comments dated 2/14/23 from Lin Deats.
[42] Emailed comments dated 2/16/23 from Kay Reibold.
[43] Emailed comments dated 2/17/23 from John Herbst.
[44] Emailed comments dated 2/15/23 from John Hagen.
[45] Emailed comments dated 2/14/23 from Jesse Sawyer.
[46] Emailed comments dated 2/15/23 from Hazel McCoy.
[47] Emailed comments dated 2/14/23 from Gregg W. Taylor.
[48] Emailed comments dated 2/15/23 from Elana Mavros.
[49] Emailed comments dated 2/14/23 from Eleanor Weisman.
[50] Emailed comments dated 2/14/23 from Diane DiFante.
[51] Emailed comments dated 2/14/23 from David Rosenstein and 4 other individuals.
[52] Emailed comments dated 2/14/23 from David F. Gassman.
[53] Emailed comments dated 2/14/23 from Christopher Lish.
[54] Emailed comments dated 2/14/23 from Carlin Black.
[55] Emailed comments dated 2/14/23 from Benjamin Christy.

EXEMPT

Docket Nos.	File date	Presenter or requester
NONE		

Dated: March 1, 2023.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2023–04637 Filed 3–6–23; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–10499–01–OMS]

Privacy Act of 1974; System of Records

AGENCY: Office of Mission Support, Environmental Protection Agency (EPA).

ACTION: Notice of a modified system of records.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is giving notice that it proposes to modify a system of records pursuant to the provisions of the Privacy Act of 1974. The Mass Alert Notification System (MANS) is being modified to update the system location, contact information, and record source categories, and to add one additional General Routine Use. The purpose of the system is to manage communications to agency personnel during critical events. EPA uses MANS for operational response to critical events to keep individuals safe and ensure continuity of business operations. During public safety threats such as active shooter situations, terrorist attacks, or severe weather conditions, as well as critical business events such as IT outages, cyber-attacks, or other incidents such as product recalls or supply-chain interruptions, customers rely on MANS to quickly and reliably aggregate and assess threat data, locate people at risk and responders able to assist, automate the execution of pre-defined communications processes, and track progress on executing incident response plans.

DATES: Persons wishing to comment on this system of records notice must do so by April 6, 2023. Routine uses for this modified system of records will be effective April 6, 2023.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OEI–2016–0235, by one of the following methods:

Federal eRulemaking Portal: https://www.regulations.gov. Follow the online instructions for submitting comments.

Email: docket_oms@epa.gov. Include the Docket ID number in the subject line of the message.

Fax: (202) 566–1752.

Mail: OMS Docket, Environmental Protection Agency, Mail Code: 2822T, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

Hand Delivery: OMS Docket, EPA/DC, WJC West Building, Room 3334, 1301 Constitution Ave. NW, Washington, DC 20460. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OEI–2016–0235. 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 Controlled Unclassified Information (CUI) or other information for which disclosure is restricted by

statute. Do not submit information that you consider to be CUI or otherwise protected through *https://www.regulations.gov.* The *https://www.regulations.gov* website is an ''anonymous access'' system for the EPA, which means the EPA will not know your identity or contact information. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment. 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. If you send an email comment directly to the EPA without going through *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. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about the EPA public docket, visit the EPA Docket Center homepage at *https://www.epa.gov/dockets.*

Docket: All documents in the docket are listed in the *https://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CUI or other information for which disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *https://www.regulations.gov* or in hard copy at the OMS Docket, EPA/DC, WJC West Building, Room 3334, 1301 Constitution Ave. NW, Washington, DC 20460. The Public Reading Room is normally open from 8:30 a.m. to 4:30 p.m., Monday through Friday excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OMS Docket is (202) 566–1752. Further information about EPA Docket Center services and current operating status is available at *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Tiye Houston, Physical Security and Preparedness Branch, Security Management Division, (202) 564–1787.

SUPPLEMENTARY INFORMATION: EPA uses MANS to disseminate emergency alerts and notification information rapidly and effectively to EPA personnel, contractors, grantees, consultants, volunteers, and other support staff, and their emergency contacts. The MANS system of records is being modified to (1) update the system location to reflect the correct system location (*i.e.,* Amazon Web Services cloud), (2) update the ''system manager(s)'' section to include the current system manager of MANS, (3) update the General Routine Uses to add routine use M, and (4) update the ''record source categories'' section to include the current records sources.

SYSTEM NAME AND NUMBER:

Mass Alert and Notification Systems (MANS), EPA–44.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

The EPA component responsible for the system is the Office of Mission Support, Environmental Protection Agency, 1301 Constitution Ave. NW, Washington, DC 20460. Records are cloud hosted at the third-party service provider Amazon Web Services US East (Northern Virginia) and US West (Oregon, Northern California) data centers.

SYSTEM MANAGER(S):

Director, Security Management Division, Office of Administration, Office of Mission Support, William Jefferson Clinton North Building, Suite B400, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 5121 *et seq.;* Executive Order 12656 (Nov. 18, 1989); Federal Continuity Directive 1 (2012).

PURPOSE(S) OF THE SYSTEM:

To contact EPA personnel, contractors, grantees, consultants, volunteers, and other support staff who have an active EPA identification badge or are in the process of obtaining an EPA identification badge, for the purposes of providing emergency alerts and notifications and conducting accountability activities in support of affected persons following an emergency, or, as a means to account for EPA employees, contractors, grantees, consultants, and any other support staff personnel following an emergency event. Records may also be used for mass alert and notification system test, drill, and exercise evolutions. This system will provide EPA with the ability to disseminate emergency alerts and notification information rapidly and effectively to EPA personnel and their emergency contacts.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

EPA personnel, contractors, grantees, consultants, volunteers, and any other support staff personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personnel information includes first name, last name, middle initial, office location, scope of the record subject's responsibilities, work email address, work telephone number and work mobile telephone number, work short message service (SMS) (texting) and work telephone typewriter, teletypewriter, or text phone/Telecommunications Device for the Deaf (TTY/TDD). Records are from various communications mediums such as telephones, emails, and SMS. Record subjects have the option to add their own personal contact information voluntarily and securely, and emergency contact(s), including home address, personal email address(es), home telephone number(s) and personal mobile telephone number(s), short message service (SMS) (texting), telephone typewriter, teletypewriter, or text phone/Telecommunications Device for the Deaf (TTY/TDD) by establishing a personal account on the MANS web-portal.

RECORD SOURCE CATEGORIES:

Records contained in this system of records are obtained from individuals including: EPA personnel, contractors, grantees, consultants, volunteers and any other support staff personnel. Records contained in this system of records are obtained from the following EPA systems: Human Resources Line of Business (HR LoB), EPA Telecommunication Detail Records, and Personnel Security System (PSS) 2.0.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

The routine uses below are both related to and compatible with the original purpose for which the information was collected. The following general routine uses apply to this system (86 FR 62527): A, E, F, G, H, K, L, and M.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

These records are maintained electronically on computer storage devices managed by Amazon Web Services, located in US East (Northern Virginia) and US West (Oregon, Northern California) data centers.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Information will be retrieved primarily by employee name.

Information may also be retrieved by any collected data element.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records stored in this system are subject to EPA's records schedule 1012, Information Technology Management. Records are kept as long as the record subject is affiliated with EPA.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Security controls used to protect personal sensitive data in MANS are commensurate with those required for an information system rated MODERATE for confidentiality, integrity, and availability, as prescribed in National Institute of Standards and Technology (NIST) Special Publication, 800–53, ''Security and Privacy Controls for Information Systems and Organizations,'' Revision 5.

1. Administrative Safeguards: The MANS cloud service provider and EPA information security and privacy policies require all employees and contractors to take security awareness training on an annual basis. All personnel are instructed to lock their computers when they leave their desks.

2. Technical Safeguards: MANS is a cloud-based Software-as-a-Service platform that is designed to be accessed over the internet. All remote communication must be encrypted, and all users are required to be authorized. Access control policy does not permit shared account credentials within the cloud environment. Each user is assigned unique credentials and can only access the cloud environment using their assigned unique credentials. Group accounts are explicitly disabled. MANS customers and personnel are prohibited from sharing accounts. MANS also implements session timeout period after 15 minutes of user inactivity. Non-privileged users do not have the capability to perform privileged functions. Access to the system is restricted to a limited number of authorized users with the appropriate security clearances and password permissions. Access to the system is further limited by user type. System administrators have full access to the tool suite, including the ability to perform administrative functions. Other users have limited access particularized to the specific functions and data they need to perform. This access is controlled by a series of permissions within dedicated workspaces/databases for each specific request. Authorized users include federal and contract staff located throughout the country.

3. Physical Safeguards: The system is maintained in secure areas and buildings with physical access controls.

RECORD ACCESS PROCEDURES:

All requests for access to personal records should cite the Privacy Act of 1974 and reference the type of request being made (*i.e.,* access). Requests must include: (1) the name and signature of the individual making the request; (2) the name of the Privacy Act system of records to which the request relates; (3) a statement whether a personal inspection of the records or a copy of them by mail is desired; and (4) proof of identity. A full description of EPA's Privacy Act procedures for requesting access to records is included in EPA's Privacy Act regulations at 40 CFR part 16.

CONTESTING RECORD PROCEDURES:

Requests for correction or amendment must include: (1) the name and signature of the individual making the request; (2) the name of the Privacy Act system of records to which the request relates; (3) a description of the information sought to be corrected or amended and the specific reasons for the correction or amendment; and (4) proof of identity. A full description of EPA's Privacy Act procedures for the correction or amendment of a record is included in EPA's Privacy Act regulations at 40 CFR part 16.

NOTIFICATION PROCEDURES:

Individuals who wish to be informed whether a Privacy Act system of records maintained by EPA contains any record pertaining to them, should make a written request to the EPA, Attn: Agency Privacy Officer, MC 2831T, 1200 Pennsylvania Ave. NW, Washington, DC 20460, or by email at: *privacy@epa.gov.* A full description of EPA's Privacy Act procedures is included in EPA's Privacy Act regulations at 40 CFR part 16.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

81 FR 76580 (November 3, 2016).

Vaughn Noga,

Senior Agency Official for Privacy.

[FR Doc. 2023–04633 Filed 3–6–23; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–R06–OW–2022–0371; FRL–9257–02–R6]

Issuance of the National Pollutant Discharge Elimination System (NPDES) General Permit for Discharges From Hydrostatic Testing of New and Existing Vessels in New Mexico (NMG270000), Oklahoma (OKG27F000), and Indian Country Within the States of Texas, Oklahoma, New Mexico, and Louisiana (TXG27I000, OKG27I000, NMG27I000, & LAG27I000)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final permit issuance.

SUMMARY: On February 21, 2023, the Water Division Director for the United States Environmental Protection Agency (EPA), Region 6 signed and issued the final permit of the NPDES General Permit for Discharges from Hydrostatic Testing of New and Existing Vessels in New Mexico (NMG270000), Oklahoma (OKG27F000), and Indian Country within the States of Texas, Oklahoma, New Mexico, and Louisiana (TXG27I000, OKG27I000, NMG27I000, & LAG27I000).

DATES: Pursuant to 40 CFR 123.61 (c) the NPDES General Permit was issued on February 21, 2023, is effective on April 15, 2023, and expires April 14, 2028. This effective date is necessary to provide dischargers with the immediate opportunity to comply with Clean Water Act requirements.

To View and/or Obtain Copies of Documents. A copy of the NPDES General Permit and related documents may be viewed or downloaded, at no cost, from the EPA website at *https://www.epa.gov/publicnotices* or *https://www.regulations.gov* or *https://www.epa.gov/npdes-permits* under New Mexico, Oklahoma, Louisiana and Texas.

FOR FURTHER INFORMATIN CONTACT: Ms. Maria Okpala, EPA Region 6, NPDES Permit Section (R6 WD–PE), 214–665–3152, *okpala.maria@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

Entities potentially affected by this action include permittees discharging water to a non-jurisdictional water that flows into a WOTUS that EPA has jurisdiction over, discharges to adjacent land that evaporate, soak in or used for agricultural irrigation but not reach WOTUS even though a groundwater

functional equivalent are exempt from NPDES, all resulting from a hydrostatic test from:

a. New vessels relatively free of pollutants that could be discharged along with the hydrostatic test water. Pollutants in the vessel prior to the hydrostatic test may include construction debris, suspended solids from soil and welding solids, lubricating oil, and pH.

b. Existing vessels that contain or previously contained or transferred raw or potable water, where the water used for hydrostatic tests does not contain corrosion inhibitors, antifreeze compounds, biocides, or other chemical additives (except chlorine or tracer dyes).

c. Existing vessels that previously contained only elemental gases (hydrogen, oxygen, nitrogen, etc.); and existing vessels that previously contained or transferred natural gas, natural gas liquids, including condensate, oil, produced water and/or other similar substances.

The areas of coverage are identified Part I, Section A.1 of the final permit, and also stated below:

Master permit number	Areas of coverage/where EPA is permitting authority
NMG270000	The State of New Mexico, except Indian country within the State of New Mexico.
OKG27F000	Discharges in the State of Oklahoma including certain areas of Indian country covered by an extension of state program authority pursuant to Section 10211 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act (SAFETEA).[1]
NMG27I000	Indian country within the State of New Mexico, except Pueblo of Laguna and Pueblo of Acoma, Navajo Nation lands that are regulated by EPA Region 9 and Ute Mountain Ute Reservation lands that are regulated by EPA Region 8.
TXG27I000	Indian country within the State of Texas.
OKG27I000	Indian country within the State of Oklahoma, except areas of Indian Country covered by an extension of state program authority pursuant to Section 10211 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act (SAFETEA). The areas covered by OKG27I000 are described as: Indian country lands, which include rights-of-way running through the same, that: (1) qualify as Indian allotments, the Indian titles to which have not been extinguished, under 18 U.S.C. § 1151(c); (2) are held in trust by the United States on behalf of an individual Indian or Tribe; or (3) are owned in fee by a Tribe, if the Tribe (a) acquired that fee title to such land, or an area that included such land, in accordance with a treaty with the United States to which such Tribe was a party, and (b) never allotted the land to a member or citizen of the Tribe.
LAG27I000	Indian country within the State of Louisiana.

The EPA retains jurisdiction over discharges in these areas. If you have any questions regarding the applicability of this action to a particular entity, please contact Ms. Maria Okpala, EPA Region 6, NPDES Permit Section (R6 WD–PE), 214–665–3152, *okpala.maria@epa.gov.*

B. What action is the EPA taking?

The EPA is providing notice of the final NPDES Permit Issuance for discharges from Hydrostatic Testing of New and Existing Vessels in New Mexico (NMG270000), Oklahoma (OKG27F000), and Indian Country within the States of Texas, Oklahoma, New Mexico, and Louisiana (TXG27I000, OKG27I000, NMG27I000, & LAG27I000).

C. What is the EPA's authority for taking this action?

Section 301 (a) of the Clean Water Act (CWA or the Act), 33 U.S.C. 1311 (a), prohibits the discharge of pollutants to waters of the United States in the absence of authorizing permits. CWA section 402, 33 U.S.C. 1342, authorizes EPA to issue National Pollutant Discharge Elimination System (NPDES) permits allowing discharges on condition they will meet certain requirements, including CWA sections 301, 304, 306, 401 (33 U.S.C. 1331, 1314, and 1341) and 403. Those statutory provisions state that NPDES permits must include effluent limitations requiring authorized discharges to: (1) meet standards reflecting levels of technological capability, (2) comply with EPA-approved state water quality standards, and (3) comply with other state requirements adopted under authority retained by states under CWA 510, 33 U.S.C. 1370.

Two types of technology-based effluent limitations must be included in the permit proposed here. With regard to conventional pollutants (*i.e.,* pH, biochemical oxygen demand (BOD), oil and grease, TSS, and fecal coliform), CWA section 301(b)(2)(E) requires effluent limitations based on ''best conventional pollution control technology'' (BCT). With regard to non-conventional and toxic pollutants, CWA section 301(b)(2)(A), (C), and (D) require effluent limitations based on ''best available pollution control technology economically achievable'' (BAT), a standard which generally represents the best performing existing technology in an industrial category or subcategory. BAT and BCT effluent limitations may never be less stringent than corresponding effluent limitations based on best practicable control technology (BPT), a standard applicable to similar discharges prior to March 31, 1989, under CWA 301(b)(1)(A).

Frequently, EPA adopts nationally applicable guidelines identifying the BPT, BCT, and BAT standards to which specific industrial categories and subcategories are subject. There are no national guidelines for the activities authorized in the final permit. National Guidelines establishing BPT, BCT, and BAT standards have not been promulgated for discharges from the

[1] On December 22, 2021, EPA proposed to withdraw and reconsider the October 1, 2020, SAFETEA approval. See *https://www.epa.gov/ok/proposed-withdrawal-and-reconsideration-and-supporting-information.* EPA is engaging in further consultation with tribal governments and expects to have discussions with the State of Oklahoma as part of this reconsideration. EPA also notes that the October 1, 2020, approval is the subject of a pending challenge in federal court. *Pawnee Nation of Oklahoma* v *Regan,* No. 20–9635 (10th Cir.). EPA may make further changes to the approval of Oklahoma's program to reflect the outcome of the proposed withdrawal and reconsideration of the October 1, 2020, SAFETEA approval. Pending completion of EPA's review, EPA is proceeding with notice of this proposed permit in accordance with the October 1, 2020, approval. EPA's final action on this permit will address the scope of coverage of this permit with respect to Indian country which may require appropriate adjustments, based on the status of our review of the SAFETEA approval. If EPA issues a final permit before our review of the SAFETEA approval is complete, EPA may reopen this the permit to make further changes to the scope of coverage to reflect the outcome of the SAFETEA review.

hydrostatic testing of vessels. The BCT and BAT requirements for these discharges have, therefore, been established using BPJ, as required by CWA section 402(a)(1). Until such guidelines are published, CWA section 402(a)(1) requires that EPA determine appropriate BCT and BAT effluent limitations in its NPDES permitting actions on the basis of its best professional judgment (BPJ).

Department of Transportation regulations 49 CFR Subchapter D, Part 192, prescribe minimum safety requirements for pipeline facilities and the transportation of gas. Part 192, Subpart J, prescribes minimum leak-test and strength test requirements for pipelines where the test medium must be liquid, air, natural gas, or inert gas. Part 192.515(b) states that the operator shall insure that the test medium is disposed of in a manner that will minimize damage to the environment. 49 CFR part 195 prescribes the transportation of hazardous liquids by pipeline.

The Agency may issue ''general permits'' applicable to a class of similar discharges within a discreet geographical area. See *NRDC* v. *Costle*, 568 F.2d 1369 (D.C. Cir. 1977) and 40 CFR 122.28. Issuance of such permits is not controlled by the procedural rules EPA uses for individual permits but is instead subject to section 4 of the Administrative Procedure Act (APA), 5 U.S.C. 553, as supplemented by EPA regulations. EPA must, however, comply with the substantive requirements of the CWA without regard to whether it is issuing an individual or general NPDES permit.

II. Public Notification Information

A. Public Notice of the Hydrostatic Test General Permit

On April 27, 2022, the EPA, Region 6, commenced the public comment period for the (NPDES) general permit authorizing discharges resulting from the hydrostatic testing of new and existing vessels (*e.g.,* pipelines, storage tanks, etc.) in New Mexico (NMG270000) and Oklahoma (OKG27F000). This authorization also covers Indian Country within the States of Texas, Oklahoma, New Mexico, and Louisiana (TXG27I000, OKG27I000, NMG27I000, & LAG27I000) [EPA–R06–OW–2022–0371; FRL–9257–01–R6].

The notice was also published at *https://www.epa.gov/publicnotices.*

B. Public Process

The EPA Region 6 opened a 60-day public comment period on April 27, 2022, that ended on June 27, 2022 (11:59 p.m. CST).

EPA held a virtual information Tribal Consultation session via TEAMS on May 18, 2022, with tribal environmental staff at which EPA explained the basis for the general permit and answered any question that the tribe had.

All comments received by the EPA were considered and responded by the EPA with the final general permit. Information about the Factsheet and draft permit are available at *www.regulations.gov,* Docket ID. No EPA–R06–OW–2022–0371.

III. Summary of Responses to Comments and Clean Water Act Section 401 Certifications

The EPA received 15 written comments from the New Mexico Environment Department. These comments are mostly specific to the New Mexico Water Quality Standards. One major comment was on the request to include operational information in the hydrostatic test monitoring records. The requested monitoring records are:

a. Start/stop time of testing
b. Duration of discharge
c. Volume of discharge
d. Source water of hydrostatic test water
e. Disposition location

After due consideration, EPA included the above requested operation information in Part I, Section E of the final permit.

EPA also received Conditions of Certifications from the New Mexico Environment Department, Oklahoma Department of Environmental Quality, all the Region 6 Tribes with CWA Certification Authority except the Pueblo of Laguna and the Pueblo of Acoma. The final permit excluded discharges on the Pueblo of Laguna and the Pueblo of Acoma from this general permit because these two Pueblos denied CWA certification.

Changes from the draft permit to implement e-reporting and e-filing of NOIs have been made to the final permit under the Minor Modification procedures at 40 CFR 122.63(f).

Additional details of the comments received, and responses are available at *www.regulations.gov* or at *https://www.epa.gov/publicnotices.*

Authority

This action is taken under the authority of section 402 of the Clean Water Act as amended, 33 U.S.C. 1342. I hereby provide public notice of the EPA's final action authorizing the NPDES General Permit for Discharges from Hydrostatic Testing of New and Existing Vessels in New Mexico (NMG270000), Oklahoma (OKG27F000), and Indian Country within the States of Texas, Oklahoma, New Mexico, and Louisiana (TXG27I000, OKG27I000, NMG27I000, & LAG27I000).

Charles W. Maguire,

Director, Water Division, EPA Region 6.

[FR Doc. 2023–04665 Filed 3–6–23; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[GN Docket No. 19–329; FR ID 129707]

Federal Advisory Committee Act; Task Force for Reviewing the Connectivity and Technology Needs of Precision Agriculture in the United States

AGENCY: Federal Communications Commission.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, this notice advises interested persons that the Federal Communications Commission's (FCC or Commission) Task Force for Reviewing the Connectivity and Technology Needs of Precision Agriculture in the United States (Task Force) will hold its next meeting via live internet link.

DATES: March 28, 2023. The meeting will come to order at 10:00 a.m. EDT.

ADDRESSES: The meeting will be wholly electronic and is open to the public on the internet via live feed from the FCC's web page at *www.fcc.gov/live.*

FOR FURTHER INFORMATION CONTACT: Lauren Garry, Designated Federal Officer, at (202) 418–0942, or *Lauren.Garry@fcc.gov*; Emily Caditz, Deputy Designated Federal Officer, at (202) 418–2268, or *Emily.Caditz@fcc.gov*; or Thomas Hastings, Deputy Designated Federal Officer, at (202) 418–1343, or *Thomas.Hastings@fcc.gov.*

SUPPLEMENTARY INFORMATION: The meeting will be held on March 28, 2023 at 10:00 a.m. EDT and may be viewed live, by the public, at *http://www.fcc.gov/live.* Any questions that arise during the meeting should be sent to *PrecisionAgTF@fcc.gov* and will be answered at a later date. Members of the public may submit comments to the Task Force in the FCC's Electronic Comment Filing System, ECFS, at *www.fcc.gov/ecfs.* Comments to the Task Force should be filed in GN Docket No. 19–329.

Open captioning will be provided for this event. Other reasonable accommodations for people with disabilities are available upon request.

Requests for such accommodations should be submitted via email to *fcc504@fcc.gov* or by calling the Consumer & Governmental Affairs Bureau at (202) 418–0530 (voice). Such requests should include a detailed description of the accommodation needed. In addition, please include a way the FCC can contact you if it needs more information. Please allow at least five days' advance notice; last minute requests will be accepted but may not be possible to fill.

Proposed Agenda: The Task Force and Working Group Leadership will provide updates on the progress of their respective reports; review and discuss program and policy expectations relevant to the Task Force's duties; and continue to discuss strategies to advance broadband deployment on agricultural land and promote precision agriculture. This agenda may be modified at the discretion of the Task Force Chair and the Designated Federal Officer.

Federal Communications Commission.

Marlene Dortch,

Secretary.

[FR Doc. 2023–04607 Filed 3–6–23; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1239; FR ID 129567]

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act of 1995 (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written PRA comments should be submitted on or before May 8, 2023. If you anticipate that you will be submitting comments but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email to *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–1239.

Title: Section 97.303(g)(2), Notification Requirement.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Individuals or Households.

Number of Respondents and Responses: 1,000 respondents; 1,000 responses.

Estimated Time per Response: 10 minutes (0.167 hours).

Frequency of Response: Third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 154(i), 161, 301, 302, 303(e), 303(f), 303(r), 304, 307 and 332(b).

Total Annual Burden: 167 hours.

Total Annual Cost: No cost.

Needs and Uses: The Commission will submit this information collection to OMB as an extension of a currently approved collection after this 60-day comment period to obtain the full three-year clearance from them.

The Commission will ensure the compatibility of amateur radio operations and Power Line Carrier (PLC) systems that operate in these bands, and will promote the shared use of these bands. As background, in the larger 9–490 kHz band, electric utilities operate Power Line Carrier (PLC) systems on power transmission lines for communications important to the reliability and security of electric service to the public. The Commission found that the identification of transmission lines are not always readily identifiable and that amateur operators may not be able to determine whether PLC systems operate in the relevant bands on the subject transmission lines. For these reasons, the Commission adopted a notification process to ensure that amateur stations seeking to operate in these bands are located outside of a minimum separation distance.

Specifically, paragraph (g)(1) of Section 97.303 states that amateur stations may operate in the 135.7–137.8 kHz band or in the 472–479 kHz band only at fixed locations that are not within a horizontal distance of one kilometer from a transmission line that conducts a power line carrier (PLC) signal within these bands. Horizontal distance is measured from the station's antenna to the closest point on the transmission line. In paragraph (g)(2) of Section 97.303 states that, prior to commencement of operations in these bands, amateur operators must notify the Utilities Telecom Council (UTC) of their intent by submitting their call signs, intended band or bands of operation, and the coordinates of their antenna's fixed location. Amateur stations will be permitted to commence operations after a 30-day period unless UTC notifies the applicant that its requested location is located within one kilometer of PLC systems operating in the same or overlapping frequencies.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2023–04594 Filed 3–6–23; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0760; FR ID 129028]

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general

public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before May 8, 2023. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *nicole.ongele@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Nicole Ongele, (202) 418–2991.

OMB Control Number: 3060–0760.

Title: 272 Sunset Order, WC Docket No. 06–120; Access Charge Reform, CC Docket No. 96–262, First Report and Order; Second Order on Reconsideration and Memorandum Opinion and Order; and Fifth Report and Order; Business Data Services Report and Order, WC Docket No. 16–143 *et al.*

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents and Responses: 13 respondents; 66 responses.

Estimated Time per Response: 3–80 hours.

Frequency of Response: On-occasion reporting requirements and third-party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 1, 4(i)–(j), 201–205, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i)–(j), 201–205, and 303(r).

Total Annual Burden: 1,256 hours.

Total Annual Cost: $68,640.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: The information requested is not of a confidential nature. However, respondents may request materials or information submitted to the Commission be withheld from public inspection under 47 CFR 0.459 of the Commission's rules.

Needs and Uses: On April 28, 2017, the Commission released the *Business Data Services Order,* WC Docket No. 16–143 *et al.,* FCC 17–43, reforming the business data services/special access regulations for incumbent and competitive LECs. The Commission's reforms included replacing the application-based pricing flexibility rules with a new framework under which: (a) packet-based services, time division multiplexing (TDM) services with bandwidth greater than 45 mbps, and TDM transport services are not subject to ex ante pricing regulation; (b) a new standard is applied to determine the extent to which the Commission regulates price cap LECs' TDM end user channel terminations with bandwidth less than 45 mbps and certain other low bandwidth business data services. Under this standard, a price cap LEC is not subject to ex ante pricing regulation in the provision of these services in counties deemed competitive under the Commission's competitive market test or for which the price cap LEC previously obtained Phase II pricing flexibility; (c) the price cap LEC is subject to ex ante pricing regulation in other counties where it is the incumbent LEC, but in these counties the price cap LEC has downward pricing flexibility (*i.e.,* the equivalent of Phase I pricing flexibility under the prior rules); and (d) the Commission will update the competitive market test results every three years using data already collected in FCC Form 477.

Among other rules changes, the *Business Data Services Report and Order* repealed section 1.774, which set forth requirements for pricing flexibility applications, and added section 1.776, which limits the circumstances under which price cap LECs must file their business data services contracts as contract-based tariffs. The Commission also amended section 69.701 of its rules to specify that its pricing flexibility rules no longer apply to business data services.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2023–04578 Filed 3–6–23; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0865; FR ID 129571]

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act of 1995 (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written PRA comments should be submitted on or before May 8, 2023. If you anticipate that you will be submitting comments but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email to *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0865.

Title: Wireless Telecommunications Bureau Universal Licensing System Recordkeeping and Third Party Disclosure Requirements.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities, Individuals or households, Not-for-profit institutions, and State, Local or Tribal Government.

Number of Respondents and Responses: 84,048 respondents; 84,050 responses.

Estimated Time per Response: .166 hours (10 minutes)—4 hours.

Frequency of Response: Recordkeeping and third-party disclosure requirements; on occasion reporting requirement.

Obligation To Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in 47 U.S.C. 154(i) and 309(j).

Total Annual Burden: 116,306 hours.

Annual Cost Burden: No cost.

Needs and Uses: The Commission will submit this information collection to the Office of Management and Budget (OMB) as an extension after this 60-day comment period to obtain the full three-year clearance from them.

The purpose of this information collection is to continually streamline and simplify processes for wireless applicants and licensees, who previously used a myriad of forms for various wireless services and types of requests, in order to provide the Commission information that has been collected in separate databases, each for a different group of services. Such processes have resulted in unreliable reporting, duplicate filings for the same licensees/applicants, and higher cost burdens to licensees/applicants. By streamlining the Universal Licensing System (ULS), the Commission eliminates the filing of duplicative applications for wireless carriers; increases the accuracy and reliability of licensing information; and enables all wireless applicants and licensees to file all licensing-related applications and other filings electronically, thus increasing the speed and efficiency of the application process. The ULS also benefits wireless applicants/licensees by reducing the cost of preparing applications, and speeds up the licensing process in that the Commission can introduce new entrants more quickly into this already competitive industry. Finally, ULS enhances the availability of licensing information to the public, which has access to all publicly available wireless licensing information on-line, including maps depicting a licensee's geographic service area.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2023–04595 Filed 3–6–23; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

[Docket No. 22–35]

M.E. Dey & Co., Inc. Complainant v. Hapag-Lloyd AG and Hapag-Lloyd (America) LLC, Respondents; Notice of Filing of Amended Complaint and Assignment

Served: March 1, 2023

Notice is given that an Amended Complaint has been filed with the Federal Maritime Commission (Commission) by M.E. Dey & Co., Inc. hereinafter ''Complainant,'' against Hapag-Lloyd AG and Hapag-Lloyd (America) LLC. (hereinafter ''Respondents''). Complainant states that it is organized and existing under the laws of Wisconsin a non-vessel-operating common carrier with a principal place of business in Milwaukee, Wisconsin. Complainant identifies the Hapag-Lloyd AG is a global ocean carrier with headquarters in Hamburg, Germany, and Hapag-Lloyd (America) LLC as a United States subsidiary and agent of Hapag AG located in Atlanta, Georgia.

Complainant alleges that Respondents violated 46 U.S.C. 41102(c) and 41104(a)(14) regarding their practices and the billing and payment of charges on the shipments of cargo, including demurrage and rail storage charges and the failure to provide chassis. An answer to the complaint is due to be filed with the Commission within twenty-five (25) days after the date of service. The full text of the complaint can be found in the Commission's Electronic Reading Room at *https://www2.fmc.gov/readingroom/proceeding/22-35/.*

This proceeding has been assigned to Office of Administrative Law Judges. The initial decision of the presiding officer in this proceeding shall be issued by December 26, 2023, and the final decision of the Commission shall be issued by July 10, 2024.

William Cody, Secretary.

[FR Doc. 2023–04596 Filed 3–6–23; 8:45 am]

BILLING CODE 6730–02–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2023–N–0008]

Orthopaedic and Rehabilitation Devices Panel of the Medical Devices Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming public advisory committee meeting of the Orthopaedic and Rehabilitation Devices Panel of the Medical Devices Advisory Committee. The general function of the committee is to provide advice and recommendations to the Agency on FDA's regulatory issues. The meeting will be open to the public.

DATES: The meeting will take place virtually on April 20, 2023, from 9 a.m. to 6 p.m. Eastern Time.

ADDRESSES: Please note that due to the impact of this COVID–19 pandemic, all meeting participants will be joining this advisory committee meeting via an online teleconferencing platform. Answers to commonly asked questions, including information regarding special accommodations due to a disability, may be accessed at: *https://www.fda.gov/advisory-committees/about-advisory-committees/common-questions-and-answers-about-fda-advisory-committee-meetings.*

FOR FURTHER INFORMATION CONTACT: Akinola Awojope, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5214, Silver Spring, MD 20993–0002, *Akinola.Awojope@fda.hhs.gov,* 301–636–0512, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). A notice in the **Federal Register** about last-minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the Agency's website at *https://www.fda.gov/AdvisoryCommittees/default.htm* and scroll down to the

appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before the meeting.

SUPPLEMENTARY INFORMATION:

Agenda: The meeting presentations will be heard, viewed, captioned, and recorded through an online teleconferencing platform. On April 20, 2023, the committee will discuss, make recommendations, and vote on clinical information related to the De Novo request for the NUsurface Meniscus Implant sponsored by Active Implants, Inc. The device is a polymeric disc-shaped device implanted in the medial compartment of the knee to distribute load between the distal femur and proximal tibia and is intended to improve pain and function in the medial compartment of a knee in which the medial meniscus has been resected.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its website prior to the meeting, the background material will be made publicly available on FDA's website at the time of the advisory committee meeting, and the background material will be posted on FDA's website after the meeting. Background material and the link to the online teleconference meeting room will be available at *https://www.fda.gov/AdvisoryCommittees/Calendar/default.htm*. Scroll down and select the appropriate advisory committee meeting link. The meeting will include slide presentations with audio components to allow the presentation of materials in a manner that most closely resembles an in-person advisory committee meeting.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before April 4, 2023. Oral presentations from the public will be scheduled on April 20, 2023, between approximately 1 p.m. and 2 p.m. Eastern Time. Those individuals interested in making formal oral presentations should notify the contact person (see **FOR FURTHER INFORMATION CONTACT**). The notification should include a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before March 27, 2023. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by March 28, 2023.

For press inquiries, please contact the Office of Media Affairs at *fdaoma@fda.hhs.gov* or 301–796–4540.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with disabilities. If you require accommodations due to a disability, please contact Artair Mallett at *Artair.Mallett@fda.hhs.gov* or 301–796–9638 at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our website at *https://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: March 1, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2023–04561 Filed 3–6–23; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket Nos. FDA–2022–P–2752 and FDA–2022–P–3125]

Determination That Lithium Citrate Oral Solution, 8 Milliequivalents/5 Milliliters, Was Not Withdrawn From Sale for Reasons of Safety or Effectiveness

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) has determined that lithium citrate oral solution, 8 milliequivalents (mEq)/5 milliliters (mL), was not withdrawn from sale for reasons of safety or effectiveness. This determination means that FDA will not begin procedures to withdraw approval of abbreviated new drug applications (ANDAs) that refer to this drug product, and it will allow FDA to continue to approve ANDAs that refer to the product as long as they meet relevant legal and regulatory requirements.

FOR FURTHER INFORMATION CONTACT: Caitlin Callahan, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6240, Silver Spring, MD 20993–0002, 240–402–4318, *Caitlin.Callahan@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Section 505(j) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 355(j)) allows the submission of an ANDA to market a generic version of a previously approved drug product. To obtain approval, the ANDA applicant must show, among other things, that the generic drug product: (1) has the same active ingredient(s), dosage form, route of administration, strength, conditions of use, and (with certain exceptions) labeling as the listed drug, which is a version of the drug that was previously approved and (2) is bioequivalent to the listed drug. ANDA applicants do not have to repeat the extensive clinical testing otherwise necessary to gain approval of a new drug application (NDA).

Section 505(j)(7) of the FD&C Act requires FDA to publish a list of all approved drugs. FDA publishes this list as part of the ''Approved Drug Products With Therapeutic Equivalence Evaluations,'' which is known generally as the ''Orange Book.'' Under FDA regulations, drugs are removed from the list if the Agency withdraws or suspends approval of the drug's NDA or ANDA for reasons of safety or effectiveness or if FDA determines that the listed drug was withdrawn from sale for reasons of safety or effectiveness (21 CFR 314.162).

A person may petition the Agency to determine, or the Agency may determine on its own initiative, whether a listed drug was withdrawn from sale for reasons of safety or effectiveness. This determination may be made at any time after the drug has been withdrawn from sale but must be made prior to approving an ANDA that refers to the listed drug (§ 314.161 (21 CFR 314.161)). FDA may not approve an ANDA that does not refer to a listed drug.

Lithium citrate oral solution, 8 mEq/5 mL, is the subject of NDA 018421, held by Hikma Pharmaceuticals USA Inc., and initially approved on December 23, 1980.[1] Lithium citrate oral

[1] In their citizen petitions, petitioners Saptalis Pharmaceuticals LLC, and Hyman, Phelps & McNamara, P.C., refer to this drug product, respectively, as ''Lithium Citrate Syrup EQ 300 mg Carbonate/5mL'' and ''Lithium Citrate Oral Syrup,

Continued

solution is a mood-stabilizing agent indicated as monotherapy for the following treatment of bipolar I disorder: treatment of acute manic and mixed episodes in patients 7 years and older; and maintenance treatment in patients 7 years and older.

Lithium citrate oral solution, 8 mEq/5 mL, is currently listed in the ''Discontinued Drug Product List'' section of the Orange Book. Saptalis Pharmaceuticals, LLC submitted a citizen petition dated November 2, 2022 (Docket No. FDA–2022–P–2752), under § 10.30 (21 CFR 10.30), requesting that the Agency determine whether lithium citrate oral solution, 8 mEq/5 mL, was withdrawn from sale for reasons of safety or effectiveness. Hyman, Phelps & McNamara, P.C. separately submitted a citizen petition dated December 6, 2022 (Docket No. FDA–2022–P–3125), under § 10.30, requesting that the Agency make the same determination.

After considering the citizen petitions and reviewing Agency records and based on the information we have at this time, FDA has determined under § 314.161 that lithium citrate oral solution, 8 mEq/5 mL, was not withdrawn for reasons of safety or effectiveness. The Petitioners have identified no data or other information suggesting that lithium citrate oral solution, 8 mEq/5 mL, was withdrawn for reasons of safety or effectiveness. We have carefully reviewed our files for records concerning the withdrawal of lithium citrate oral solution, 8 mEq/5 mL, from sale. We have also independently evaluated relevant literature and data for possible postmarketing adverse events. We have found no information that would indicate that this drug product was withdrawn from sale for reasons of safety or effectiveness.

Accordingly, the Agency will continue to list lithium citrate oral solution, 8 mEq/5 mL, in the ''Discontinued Drug Product List'' section of the Orange Book. The ''Discontinued Drug Product List'' delineates, among other items, drug products that have been discontinued from marketing for reasons other than safety or effectiveness. FDA will not begin procedures to withdraw approval of approved ANDAs that refer to this drug product. Additional ANDAs for this drug product may also be approved by the Agency as long as they meet all other legal and regulatory requirements for the approval of ANDAs. If FDA determines that labeling for this drug product should be revised to meet current standards, the Agency will advise ANDA applicants to submit such labeling.

Dated: March 1, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2023–04560 Filed 3–6–23; 8:45 am]

BILLING CODE 4164–01–P

300 mg Carbonate/5mL.'' The currently approved labeling refers to this drug product as ''Lithium Oral Solution USP, 8 mEq per 5 mL'' and provides that the dosage strength for Lithium Oral Solution in terms of lithium content, 8 mEq/5mL, is equivalent to 300 mg lithium carbonate/5 mL. For purposes of this determination, we use the current label's description, ''Lithium Oral Solution USP, 8 mEq per 5 mL.''

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–1998–D–0038]

Evaluating the Safety of Antimicrobial New Animal Drugs With Regard to Their Microbiological Effects on Bacteria of Human Health Concern; Revised Draft Guidance for Industry; Availability; Extension of Comment Period

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability; extension of comment period.

SUMMARY: The Food and Drug Administration (FDA or the Agency) is extending the comment period for the notice announcing the availability of a draft guidance for industry that appeared in the **Federal Register** of December 19, 2022. In that notice, FDA requested comments on draft guidance for industry (GFI) #152 entitled ''Evaluating the Safety of Antimicrobial New Animal Drugs with Regard to their Microbiological Effects on Bacteria of Human Health Concern.'' The Agency is taking this action in response to a request for an extension to allow interested persons additional time to submit comments.

DATES: FDA is extending the comment period on the notice published December 19, 2022 (87 FR 77619). Submit either electronic or written comments by May 19, 2023, to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

ADDRESSES: You may submit comments on any guidance at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for Written/Paper Submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–1998–D–0038 for ''Evaluating the Safety of Antimicrobial New Animal Drugs with Regard to their Microbiological Effects on Bacteria of Human Health Concern.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The

Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

FOR FURTHER INFORMATION CONTACT: Ruby Singh, Center for Veterinary Medicine (HFV–150), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 240–402–0794, *ruby.singh@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In the **Federal Register** of December 19, 2022, FDA published a notice announcing the availability of a draft guidance for industry entitled ''Evaluating the Safety of Antimicrobial New Animal Drugs with Regard to their Microbiological Effects on Bacteria of Human Health Concern,'' and requesting comments on the proposed GFI.

Interested persons were originally given until March 20, 2023, to comment on the document. The Agency has received a request for an extension of the comment period. The request stated that an additional 90 days would allow interested parties to thoroughly consider the request for input. FDA has considered the request and is extending the comment period for the request for comments for 60 days, until May 19, 2023. The Agency believes that a 60-day extension allows adequate time for interested persons to submit comments.

Dated: March 1, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2023–04562 Filed 3–6–23; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2017–N–4853]

Receipt of Notice That a Patent Infringement Complaint Was Filed Against a Biosimilar or Interchangeable Biosimilar Applicant

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is publishing notice that an applicant for a biologics license application (BLA) for a biosimilar or interchangeable biosimilar product submitted under the Public Health Service Act (PHS Act) (a ''subsection (k) applicant'') notified FDA that an action for patent infringement was filed in connection with the applicant's BLA. Under the PHS Act, within 30 days after the subsection (k) applicant is served with a complaint in an action for patent infringement described under the PHS Act, the subsection (k) applicant shall provide the Secretary of HHS with notice and copy of such complaint. FDA is required to publish notice of the complaint in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Sandra Benton, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 1132, Silver Spring, MD 20993–0002, 301–796–1042, *Sandra.Benton@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: The Biologics Price Competition and Innovation Act of 2009 (BPCI Act) was enacted as part of the Patient Protection and Affordable Care Act (Pub. L. 111–148) on March 23, 2010. The BPCI Act amended the PHS Act and created an abbreviated licensure pathway for biological products shown to be biosimilar to, or interchangeable with, an FDA-licensed biological reference product. Section 351(k) of the PHS Act (42 U.S.C. 262(k)) sets forth the requirements for an application for a proposed biosimilar product and an application or a supplement for a proposed interchangeable product.

Section 351(l) of the PHS Act describes certain procedures for exchanging patent information and resolving patent disputes between a subsection (k) applicant and the holder of the BLA reference product. If a subsection (k) applicant is served with a complaint in an action for a patent infringement described in section 351(l)(6) of the PHS Act, the subsection (k) applicant is required to provide the Secretary of HHS with notice and a copy of the complaint within 30 days of service. FDA is required to publish notice of a complaint received under section 351(l)(6)(C) of the PHS Act in the **Federal Register**.

FDA received notice of the following complaint under section 351(l)(6)(C) of the PHS Act: *Regeneron Pharmaceuticals, Inc.* v. *Mylan Pharmaceuticals Inc.,* 1:22–CV–61 (N.D.W. Va., filed August 2, 2022).

FDA has only a ministerial role that is limited to publishing notice of a complaint received under section 351(l)(6)(C) of the PHS Act and does not perform a substantive review of the complaint.

Dated: February 28, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2023–04583 Filed 3–6–23; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2023–N–0680]

Fosun Pharma USA Inc.; Withdrawal of Approval of Abbreviated New Drug Application for Pemoline Tablets, 18.75 Milligrams, 37.5 Milligrams, and 75 Milligrams

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is withdrawing approval of abbreviated new drug application (ANDA) 075286 for pemoline tablets, 18.75 milligrams (mg), 37.5 mg, and 75 mg, held by Fosun Pharma USA Inc. (Fosun), 104 Carnegie Center, Princeton, NJ 08540. Fosun requested that approval of this application be withdrawn and has waived its opportunity for a hearing.

DATES: Approval is withdrawn as of March 7, 2023.

FOR FURTHER INFORMATION CONTACT: Kimberly Lehrfeld, Office of Regulatory Policy, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire

Ave., Bldg. 51, Rm. 6226, Silver Spring, MD 20993, 301–796–3137, *Kimberly.Lehrfeld@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: On June 30, 1999, FDA approved ANDA 075286 for pemoline tablets, 18.75 mg, 37.5 mg, and 75 mg, for the conditions of use in the labeling of new drug application (NDA) 016832, the reference listed drug on which it relied. On October 24, 2005, the Agency issued a Postmarket Drug Safety Information for Patients and Providers communication entitled ''Information for Healthcare Professionals: Pemoline Tablets and Chewable Tablets (Marketed as CYLERT)'' which concluded the overall liver toxicity risk of CYLERT (pemoline) (NDAs 016832 and 017703) and generic pemoline products outweighed the benefits of these products (*https://wayback.archive-it.org/7993/20171114124349/https://www.fda.gov/Drugs/DrugSafety/PostmarketDrugSafetyInformationforPatientsandProviders/ucm126461.htm*).

All holders of approved applications for pemoline products, including Fosun, ceased marketing the products at that time. On April 22, 2019, Fosun requested that FDA withdraw approval of ANDA 075286, pursuant to § 314.150(d) (21 CFR 314.150(d)) and waived its opportunity for a hearing.

For the reasons discussed above, and in accordance with the applicant's request, approval of ANDA 075286 for pemoline tablets, 18.75 mg, 37.5 mg, and 75 mg, and all amendments and supplements thereto, is withdrawn under § 314.150(d). Distribution of pemoline tablets, 18.75 mg, 37.5 mg, and 75 mg, into interstate commerce without an approved application is illegal and subject to regulatory action (see sections 505(a) and 301(d) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(a) and 331(d))).

Dated: March 1, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2023–04564 Filed 3–6–23; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission to OMB for Review and Approval; Public Comment Request; Rural Health Network Development Planning Program

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, HRSA submitted an Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and approval. Comments submitted during the first public review of this ICR will be provided to OMB. OMB will accept further comments from the public during the review and approval period. OMB may act on HRSA's ICR only after the 30-day comment period for this notice has closed.

DATES: Comments on this ICR should be received no later than April 6, 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 Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: To request a copy of the clearance requests submitted to OMB for review, email Samantha Miller, the HRSA Information Collection Clearance Officer, at *paperwork@hrsa.gov* or call (301) 594–4394.

SUPPLEMENTARY INFORMATION:

Information Collection Request Title: The Rural Health Network Development Planning Performance Improvement and Measurement System Database OMB No. 0915–0384—Revision.

Abstract: The purpose of the Rural Health Network Development Planning Program (Network Planning Program) is to promote the planning and development of integrated health care networks to address the following legislative aims: (i) achieve efficiencies; (ii) expand access to, coordinate, and improve the quality of basic health care services and associated health outcomes; and (iii) strengthen the rural health care system. This program supports 1 year of planning and brings together key parts of a rural health care delivery system, particularly those entities that may not have collaborated in the past, to establish and/or improve local capacity in order to strengthen rural community health interventions and enhance care coordination. HRSA collects information from the Network Planning Program award recipients using approved performance measures. HRSA seeks to revise its approved information collection by increasing the total estimated annual burden hours, due to an increase in the number of program award recipients.

A 60-day notice was published in the **Federal Register** on December 9, 2022, vol. 87, No. 236; pp. 75638–39. There were no public comments.

Need and Proposed Use of the Information: Performance measures for the Network Planning Program serve the purpose of quantifying awardee-level data that conveys the successes and challenges associated with the grant award. These measures and aggregate data substantiate and inform the focus and objectives of the grant program. The approved measures encompass the following principal topic areas: network infrastructure, network collaboration, sustainability, and network assessment. The burden is increasing by 2 hours from the previously approved collection due to an increase in the number of award recipients from 21 to 23.

Likely Respondents: The respondents for these measures are Rural Health Network Development Planning Program award recipients.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose, or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install, and utilize technology and systems for the purpose of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

Total Estimated Annualized Burden Hours:

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
Rural Health Network Development Planning Program Performance Improvement Measurement System	23	1	23	1	23
Total	23		23		23

HRSA specifically requests comments on (1) the necessity and utility of the proposed information collection for the proper performance of the agency's functions, (2) the accuracy of the estimated burden, (3) ways to enhance the quality, utility, and clarity of the information to be collected, and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Maria G. Button,

Director, Executive Secretariat.

[FR Doc. 2023–04585 Filed 3–6–23; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; 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 on Aging Special Emphasis Panel; Dementia Care.

Date: March 28, 2023.

Time: 9:00 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Dario Dieguez, Ph.D., Scientific Review Officer, National Institutes of Health, National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20892, (301) 827–3101, *dario.dieguez@nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: March 2, 2023.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–04621 Filed 3–6–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; 30-Day Comment Request; NCI Genomic Data Commons (GDC) Data Submission Request Form (National Cancer Institute)

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below.

DATES: Comments regarding this information collection are best assured of having their full effect if received within 30 days of the date of this publication.

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 using the search function.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact: Jean Claude Zenklusen, Ph.D., Scientific Program Director, Center for Cancer Genomics (CCG), National Cancer Institute, Building 31 Room 3A20, 31 Center Drive, Bethesda MD 20814 or call the non-toll-free number 301–781–3409 or Email your request, including your address to: *Jean.Zenklusen@nih.gov.*

SUPPLEMENTARY INFORMATION: This proposed information collection was previously published in the **Federal Register** on November 7, 2022, page 67049 (Vol. 87 No. 215 FR 67049 and allowed 60 days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 days for public comment.

The National Cancer Institute (NCI), National Institutes of Health, may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

In compliance with Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below.

Proposed Collection: NCI Genomic Data Commons (GDC) Data Submission Request Form, 0925–0752, Expiration Date 3/31/2023, EXTENSION, National Cancer Institute (NCI), National Institutes of Health (NIH).

Need and Use of Information Collection: The purpose of the NCI Genomic Data Commons (GDC) Data Submission Request Form is to provide a vehicle for investigators to request the submission of their cancer genomic data into the GDC in support of data sharing. The purpose is also to provide a mechanism for the GDC Data Submission Review Committee to review and assess the data submission request for applicability to the GDC mission. The scope of the form involves obtaining information from investigators that: (1) would like to submit data about their study into the GDC, (2) are affiliated with studies that adhere to GDC data submission conditions. The benefits of the collection are that it provides the needed information for investigators to understand the types of

studies and data that the GDC supports and allows for a standard mechanism for the GDC to assess incoming data submission requests.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 50 hours.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Number of respondents	Number of responses per respondent	Average time per response (in hours)	Total annual burden hour
Investigator	200	1	15/60	50
Total		200		50

Dated: March 2, 2023.

Diane Kreinbrink,

Project Clearance Liaison, National Cancer Institute, National Institutes of Health.

[FR Doc. 2023–04628 Filed 3–6–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the Center for Scientific Review Advisory Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should register at: *https://public.csr.nih.gov/AboutCSR/Organization/CSRAdvisoryCouncil/Registration.*

The meeting can be viewed remotely via the NIH Videocasting website: *https://videocast.nih.gov/watch=49156.*

Name of Committee: Center for Scientific Review Advisory Council.

Date: March 27, 2023.

Time: 10:00 a.m. to 3:00 p.m.

Agenda: Provide advice to the Director, Center for Scientific Review (CSR), on matters related to planning, execution, conduct, support, review, evaluation, and receipt and referral of grant applications at CSR.

Place: National Institutes of Health, 6701 Rockledge Drive, Conference Room 160A, Bethesda, MD 20892.

Contact Person: Bruce Reed, Ph.D., Deputy Director, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 594–9159, *reedbr@mail.nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has stringent procedures for entrance into NIH federal property. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Additional Health and Safety Guidance: Before attending a meeting at an NIH facility, it is important that visitors review the NIH COVID–19 Safety Plan at *https://ors.od.nih.gov/sr/dohs/safety/NIH-covid-19-safety-plan/Pages/default.aspx* for information about requirements and procedures for entering NIH facilities, especially when the COVID–19 community level is medium. If the COVID–19 level is high, the meeting will be held virtually. In addition, the Safer Federal Workforce website has FAQs for visitors at *https://www.saferfederalworkforce.gov/faq/visitors/.* Please note that if an individual has a COVID–19 diagnosis within 10 days of the meeting, that person must attend virtually. (For more information please read NIH's Requirements for Persons after Exposure at *https://ors.od.nih.gov/sr/dohs/safety/NIH-covid-19-safety-plan/COVID-assessment-testing/Pages/persons-after-exposure.aspx* and What Happens When Someone Tests Positive at *https://ors.od.nih.gov/sr/dohs/safety/NIH-covid-19-safety-plan/COVID-assessment-testing/Pages/test-positive.aspx.*) Anyone from the public can attend the meeting virtually via the NIH Videocasting website (*http://videocast.nih.gov*). Please continue checking these websites, in addition to the committee website listed below, for the most up-to-date guidance as the meeting date approaches.

Information is also available on the Institute's/Center's home page: *https://public.csr.nih.gov/AboutCSR/Organization/CSRAdvisoryCouncil,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: March 1, 2023.

Tyeshia M. Roberson-Curtis,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–04622 Filed 3–6–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF THE INTERIOR

U.S. Geological Survey

[GX23EE000101100]

Public Meeting of the National Geospatial Advisory Committee

AGENCY: Department of the Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act (FACA) of 1972, the U.S. Geological Survey (USGS) is publishing this notice to announce that a Federal Advisory Committee meeting of the National Geospatial Advisory Committee (NGAC) will take place.

DATES: The webinar meeting will be held on Tuesday, April 11, 2023, from 1 p.m. to 5 p.m. and on Wednesday, April 12, 2023, from 1 p.m. to 5 p.m. (Eastern Standard Time).

ADDRESSES: The meeting will be held on-line and via teleconference. Instructions for accessing the meeting will be posted at *www.fgdc.gov/ngac.* Comments can be sent by email to *gs-faca@usgs.gov.*

FOR FURTHER INFORMATION CONTACT: Mr. John Mahoney, Federal Geographic Data Committee (FGDC), USGS, by mail at 909 First Avenue, Room 703, Seattle, WA 98104; or by email at *jmahoney@usgs.gov*; or by telephone at (206) 375–2565.

SUPPLEMENTARY INFORMATION: This meeting is being held under the provisions of the FACA of 1972 (5 U.S.C., Appendix 10), the Government in the Sunshine Act of 1976 (5 U.S.C. 552B, as amended), and 41 CFR 102–3.140 and 102–3.150.

Purpose of the Meeting: The NGAC provides advice and recommendations related to management of Federal and national geospatial programs, the development of the National Spatial Data Infrastructure (NSDI), and the implementation of the Geospatial Data Act of 2018 (GDA) and the Office of Management and Budget Circular A–16. The NGAC reviews and comments on geospatial policy and management issues and provides a forum to convey views representative of non-federal stakeholders in the geospatial community. The NGAC meeting is one of the primary ways that the FGDC collaborates with its broad network of partners. Additional information about the NGAC meeting is available at: *www.fgdc.gov/ngac.*

Agenda Topics:

—FGDC Update
—Landsat Advisory Group
—3D Elevation Program
—GDA Reporting
—GDA Implementation
—Geospatial Excellence and Innovation
—NSDI Strategic Plan/Integrated Geospatial Information Framework
—Public Comment

The meeting is open to the public and will take place from 1 p.m. to 5 p.m. on April 11, 2023, and from 1 p.m. to 5 p.m. April 12, 2023 (Eastern Standard Time). Members of the public wishing to attend the meeting should visit *www.fgdc.gov/ngac* or contact Mr. John Mahoney (see **FOR FURTHER INFORMATION CONTACT**). Webinar/conference line instructions will be provided to registered attendees prior to the meeting.

Meeting Accessibility/Special Accommodations: Please make requests in advance for sign-language interpreter services, assistive listening devices, or other reasonable accommodations. We ask that you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice at least seven (7) business days prior to the meeting to give the Department of the Interior sufficient time to process your request. All reasonable accommodation requests are managed on a case-by-case basis.

Individuals in the United States who are deaf, blind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

Public Disclosure of Comments: There will be an opportunity for public comment during both days of the meeting. Depending on the number of people who wish to speak and the time available, the time for individual comments may be limited. Written comments may also be sent to the Committee for consideration. To allow for full consideration of information by Committee members, written comments must be provided to John Mahoney (see **FOR FURTHER INFORMATION CONTACT**) at least three (3) business days prior to the meeting. Any written comments received will be provided to Committee members before the meeting.

Before including your address, phone number, email address, or other personally identifiable information (PII) in your comment, you should be aware that your entire comment—including your PII—may be made publicly available at any time. While you may ask us in your comment to withhold your PII from public review, we cannot guarantee that we will be able to do so.

Authority: 5 U.S.C. Appendix 10.

Kenneth Shaffer,

Deputy Executive Director, Federal Geographic Data Committee.

[FR Doc. 2023–04612 Filed 3–6–23; 8:45 am]

BILLING CODE 4338–11–P

DEPARTMENT OF THE INTERIOR

Bureau of Safety and Environmental Enforcement

[Docket ID BSEE–2022–0010; EEEE500000 234E1700D2 ET1SF0000.EAQ000; OMB Control Number 1014–0004]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Oil and Gas Well-Completion Operations

AGENCY: Bureau of Safety and Environmental Enforcement, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Bureau of Safety and Environmental Enforcement (BSEE) proposes to renew an information collection.

DATES: Interested persons are invited to submit comments on or before April 6, 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. Please provide a copy of your comments to Kye Mason, BSEE ICCO, 45600 Woodland Road, Sterling, VA 20166; or by email to *kye.mason@bsee.gov.* Please reference OMB Control Number 1014–0004 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Kye Mason by email at *kye.mason@bsee.gov,* or by telephone at (703) 787–1607. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States. You may also view the ICR at *http://www.reginfo.gov/public/do/PRAMain.*

SUPPLEMENTARY INFORMATION: In accordance with the PRA and 5 CFR 1320.8(d)(1), we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

A **Federal Register** notice with a 60-day public comment period soliciting comments on this collection of information was published on August 4, 2022 (87 FR 47788). No comments were received.

As part of our continuing effort to reduce paperwork and respondent burdens, we are again soliciting comments from the public and other Federal agencies on the proposed ICR that is described below. We are especially interested in public comment addressing the following:

(1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility;

(2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) How might the agency minimize the burden of the collection of information on those who are to

respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of response.

Comments that you submit in response to this notice are a matter of public record. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: The regulations at 30 CFR 250, subpart E, pertain to Oil and Gas Well-Completion Operations and are the subject of this collection. This request also covers the related Notices to Lessees and Operators (NTLs) that BSEE issues to clarify, supplement, or provide additional guidance on some aspects of our regulations.

The BSEE uses the information collected under Subpart E to ensure that planned well-completion operations will protect personnel and natural resources. They use the analysis and evaluation results in the decision to approve, disapprove, or require modification to the proposed well-completion operations. Specifically, BSEE uses the information to ensure:

- compliance with personnel safety training requirements;
- crown block safety device is operating and can be expected to function to avoid accidents;
- proposed operation of the annular preventer is technically correct and provides adequate protection for personnel, property, and natural resources;
- blowout prevention (BOP) equipment complies with the most recent WCR and API Standard 53;
- well-completion operations are conducted on well casings that are structurally competent; and
- sustained casing pressures are within acceptable limits.

Title of Collection: 30 CFR 250, Subpart E, Oil and Gas Well-Completion Operations.

OMB Control Number: 1014–0004.

Form Number: None.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Potential respondents include Federal OCS oil, gas, and sulfur lessees and/or operators and holders of pipeline rights-of-way.

Total Estimated Number of Annual Respondents: Currently there are approximately 550 Federal OCS oil, gas, and sulfur lessees and holders of pipeline rights-of-way. Not all the potential respondents will submit information in any given year, and some may submit multiple times.

Total Estimated Number of Annual Responses: 5,898.

Estimated Completion Time per Response: Varies from 1.5 hours to 13 hours, depending on activity.

Total Estimated Number of Annual Burden Hours: 17,985.

Respondent's Obligation: Mandatory.

Frequency of Collection: Generally submitted weekly, biennially, and on occasion, depending on the requirement.

Total Estimated Annual Nonhour Burden Cost: We have identified no non-hour cost burdens associated with this collection of information.

BURDEN BREAKDOWN

Citation 30 CFR 250 subpart E	Reporting and recordkeeping requirements	Hour burden	Average number of annual responses	Annual burden hours (rounded)
500–531	General departure and alternative compliance requests not specifically covered elsewhere in Subpart E regulations.	Burden covered under Subpart A—1014–0022		0
513	These sections contain references to information, approvals, requests, payments, etc., which are submitted with an APD, the burdens for which are covered under its own information collection.	APD burden covered under 1014–0025		0
513(a); 518(f); 526(a); 527	These sections contain references to information, approvals, requests, payments, etc., which are submitted with an APM, the burdens for which are covered under its own information collection.	APM burden covered under 1014–0026		0
511	Record weekly results of traveling-block safety device in operations log.	1.5	498 completions × 1 recordings = 498.	747
512	Request establishment, amendment, or cancellation of well-completion field rules.	12	28 requests	336
513(c), (d)	Submit End of Operations Report (Form BSEE–0125) to District Manager 30-days after completion; including additional supporting information and public info. copy.	Burden covered under Subpart D—1014–0018		0
514(c)	Post the number of stands of drill pipe/collars that may be pulled and equivalent well-control fluid volume.	2	850 postings	1,700
524	Retain records of casing pressure and diagnostic tests for 2 years or until the well is abandoned.	2	3,672 records	7,344
526(b); 528	Submit a casing pressure request; any additional information as needed.	9.5	708 requests	6,726

BURDEN BREAKDOWN—Continued

Citation 30 CFR 250 subpart E	Reporting and recordkeeping requirements	Hour burden	Average number of annual responses	Annual burden hours (rounded)
530(a)	Submit correction action plan to District Manager; notify BSEE after completion of corrected action within 30 days.	13	74 plans	962
530(b)	Submit the casing pressure diagnostic test data within 14 days.	2.5	68 submittals	170
Total Hour Burden			5,898 Responses	17,985

An agency may not conduct, or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Kirk Malstrom,

Chief, Regulations and Standards Branch.

[FR Doc. 2023–04624 Filed 3–6–23; 8:45 am]

BILLING CODE 4310–VH–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–681 and 731–TA–1591 (Final)]

White Grape Juice Concentrate From Argentina; Revised Schedule for the Subject Investigations

AGENCY: United States International Trade Commission.

ACTION: Notice.

DATES: February 28, 2023.

FOR FURTHER INFORMATION CONTACT: Ahdia Bavari (202–205–3191), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*https://www.usitc.gov*). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION: Effective November 3, 2022, the Commission published its schedule for the final phase of these investigations (87 FR 75066, December 7, 2022). On February 23, 2023, counsel for the petitioner, Delano Growers Grape Products, LLC, and counsel for respondents, Cepas Argentinas S.A. and Federación de Cooperativas Vitivinicolas Argentinas Coop. Ltda., filed with the Secretary to the Commission requests that the schedule in these investigations be modified to give the Department of Commerce (Commerce) and the parties to these investigations the opportunity to fully consider the proposed agreements suspending the antidumping and countervailing duty investigations on white grape juice concentrate from Argentina. The Commission granted these requests, in part, and is hereby revising its schedule.

The Commission's new schedule for these investigations is as follows: the prehearing staff report will be placed on the nonpublic record on March 13, 2023; the deadline for filing prehearing briefs is March 20, 2023; requests to appear at the hearing must be filed with the Secretary to the Commission not later than March 20, 2023; if deemed necessary, the prehearing conference will be held at 9:30 a.m. on March 23, 2023; the hearing will be held at 9:30 a.m. on March 27, 2023; the deadline for filing posthearing briefs is March 31, 2023; the Commission will make its final release of information on April 18, 2023; and final party comments are due on April 20, 2023.

For further information concerning these proceedings, see the Commission's notice cited above and the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.21 of the Commission's rules.

By order of the Commission.

Issued: March 2, 2023.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2023–04638 Filed 3–6–23; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1294]

Certain High-Performance Gravity-Fed Water Filters and Products Containing the Same Notice of Request for Statements on the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that on February 28, 2023, the presiding administrative law judge issued an Initial Determination on Section 337 Violation and a Recommended Determination on Remedy and Bonding in the above-captioned investigation. The Commission is soliciting comments on public interest issues raised by the recommended relief should the Commission find a violation. This notice is soliciting public interest comments from the public only.

FOR FURTHER INFORMATION CONTACT: Michael Liberman, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–3115. 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: Section 337 of the Tariff Act of 1930 (''Section 337'') provides that if the Commission finds a violation it shall exclude the articles concerned from the United States unless the public interest factors listed in 19 U.S.C. 1337(d)(1) prevent such action.

The Commission is soliciting comments on public interest issues raised by the recommended relief should the Commission find a violation, specifically, a limited exclusion order (''LEO'') covering all of the infringing articles imported, sold for importation, or sold after importation by respondents Kaz USA, Inc. and Helen of Troy Limited (''the PUR Respondents''); Zero Technologies, LLC; Culligan International Co.; and Vestergaard Frandsen Inc. (''LifeStraw Respondent''), as well as cease and desist orders (''CDOs'') against the PUR Respondents and LifeStraw Respondent. Parties are to file public interest submissions pursuant to 19 CFR 210.50(a)(4).

The Commission is interested in further development of the record on the public interest in this investigation. Accordingly, members of the public are invited to file submissions of no more than five (5) pages, inclusive of attachments, concerning the public interest in light of the administrative law judge's Recommended Determination on Remedy and Bonding issued in this investigation on February 28, 2023. Comments should address whether issuance of the recommended LEO and CDOs in this investigation, should the Commission find a violation, would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the recommended remedial orders are used in the United States;

(ii) Identify any public health, safety, or welfare concerns in the United States relating to the recommended orders;

(iii) Identify like or directly competitive articles that complainants, their licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) Indicate whether complainants, complainants' licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the recommended orders within a commercially reasonable time; and

(v) Explain how the recommended orders would impact consumers in the United States.

Written submissions from the public must be filed no later than by close of business on March 31, 2023.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above. The Commission's paper filing requirements in 19 CFR 210.4(f) are currently waived. 85 FR 15798 (March 19, 2020). Submissions should refer to the investigation number (''Inv. No. 337–TA–1294'') in a prominent place on the cover page and/or the first page. (*See Handbook for Electronic Filing Procedures, https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf.*). Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment by marking each document with a header indicating that the document contains confidential information. This marking will be deemed to satisfy the request procedure set forth in Rules 201.6(b) and 210.5(e)(2) (19 CFR 201.6(b) & 210.5(e)(2)). Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. A redacted non-confidential version of the document must also be filed simultaneously with any confidential filing. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this investigation may be disclosed to and used: (i) by the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements. All nonconfidential written submissions will be available for public inspection on EDIS.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: March 2, 2023.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2023–04655 Filed 3–6–23; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

[OMB Number 1140–0020]

Agency Information Collection Activities; Proposed eCollection of eComments Requested; Revision of a Currently Approved Collection

AGENCY: Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), Department of Justice (DOJ), will submit the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The information collection (IC) OMB #1140–0020 is being revised due to material changes to the form, such as added checkboxes, revised questions, new questions added, instruction clarification, grammatical changes (sentence rephrasing/statement modification) and formatting changes (added header). There is also a decrease in the total number of respondents, responses, and burden hours since the last renewal in 2019. The proposed information collection is also being published to obtain comments from the public and affected agencies.

DATES: Comments are encouraged and will be accepted for 60 days until May 8, 2023.

FOR FURTHER INFORMATION CONTACT: If you have additional comments regarding the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, contact: Jason Gluck, Firearms Enforcement Specialist, Firearms Industry Program Branch, by mail at 99 New York Ave. NE, 6.N–512, Washington, DC 20226, email at *FederalRegisterNotice@atf.gov,* or telephone at 202–648–7190.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
—Evaluate whether and, if so, how the quality, utility, and clarity of the information to be collected can be enhanced; and
—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

1. *Type of Information Collection (check justification or form 83):* Revision of a Currently Approved Collection.

2. *The Title of the Form/Collection:* Firearms Transaction Record/Registro de Transacción de Armas de Fuego.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:*

Form number (if applicable): ATF Form 4473 (5300.9).

Component: Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Department of Justice.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Individuals or households.

Other (if applicable): Business or other for-profit.

Abstract: The Firearms Transaction Record/Registro de Transacción de Armas de Fuego allows Federal firearms licensees to determine the eligibility of persons purchasing firearms. It also alerts buyers to certain restrictions on the receipt and possession of firearms.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 16,102,962 respondents will utilize the form annually and it will take each respondent approximately 30 minutes to complete their responses.

6. *An estimate of the total public burden (in hours) associated with the collection:* The estimated annual public burden associated with this collection is 8,051,482 which is equal to 16,102,962 (total respondents) × 1 (# of response per respondent) × .5 (30 minutes).

7. *An Explanation of the Change in Estimates:* The adjustments associated with this information collection, includes a decrease in the total respondents by 1,086,139. This is due to a decrease in the number of firearms sold in the last calendar year. Consequently, the total burden hours for this IC also decreased by 543,069 hours since the last renewal in 2019.

If additional information is required contact: John R. Carlson, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 4W–218, Washington, DC 20530.

Dated: March 2, 2023.

John R. Carlson,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2023–04656 Filed 3–6–23; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Employee Benefit Plan Claims Procedure

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Employee Benefits Security Administration (EBSA)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that the agency receives on or before April 6, 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) if the information will be processed and used in a timely manner; (3) 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; (4) ways to enhance the quality, utility and clarity of the information collection; and (5) 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: Mara Blumenthal by telephone at 202–693–8538, or by email at *DOL_PRA_PUBLIC@dol.gov*.

SUPPLEMENTARY INFORMATION: Section 505 of ERISA authorizes the Secretary to prescribe regulations as appropriate or necessary to carry out the provisions of Title I of ERISA. The claims procedure regulation, codified at 29 CFR 2560.503–1, established minimum claims procedure requirements that all employee benefit plans under ERISA must meet to satisfy the requirements of section 503 of ERISA. This information collection request contains the notice requirements of the regulation. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on July 22, 2022 (87 FR 43897).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

DOL seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOL notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Agency: DOL–EBSA.

Title of Collection: Employee Benefit Plan Claims Procedure.

OMB Control Number: 1210–0053.

Affected Public: Private Sector—Businesses or other for-profits and not-for-profit institutions.

Total Estimated Number of Respondents: 3,887,973.

Total Estimated Number of Responses: 1,436,422,678.

Total Estimated Annual Time Burden: 28,981,362 hours.

Total Estimated Annual Other Costs Burden: $262,290,654.

(Authority: 44 U.S.C. 3507(a)(1)(D))

Dated: March 1, 2023.

Mara Blumenthal,

Senior PRA Analyst.

[FR Doc. 2023–04600 Filed 3–6–23; 8:45 am]

BILLING CODE 4510–29–P

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities: Comment Request; NSF Evaluation of Anti-Harassment Term and Condition

AGENCY: National Science Foundation.

ACTION: Submission for OMB review; comment request.

SUMMARY: The National Science Foundation (NSF) has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1995. This is the second notice for public comment; the first was published in the **Federal Register**, and no comments were received. NSF is forwarding the proposed submission to the Office of Management and Budget (OMB) for clearance simultaneously with the publication of this second notice.

DATES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAmain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 2415 Eisenhower Avenue, Alexandria, Virginia 22314; telephone (703) 292–7556; or send email to *splimpto@nsf.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, which is accessible 24 hours a day, 7 days a week, 365 days a year (including Federal holidays).

Comments: Comments regarding (a) whether the proposed collection of information is necessary for the proper performance of the functions of the NSF, including whether the information shall have practical utility; (b) the accuracy of the NSF's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, use, and clarity of the information on respondents; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to the points of contact in the **FOR FURTHER INFORMATION CONTACT** section.

Copies of the submission may be obtained by calling 703–292–7556. NSF may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number, and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

SUPPLEMENTARY INFORMATION:

Comments: As required by 5 CFR 1320.8(d), comments on the information collection activities as part of this study were solicited through the publication of a 60-Day Notice in the **Federal Register** on November 29, 2022, at 87 FR 73337. We received one comment from the Federation of American Societies for Experimental Biology (dated January 30, 2023), which was supportive of this information collection. NSF is proceeding with the request to OMB.

Title of Collection: NSF Evaluation of Anti-Harassment Term and Condition.

OMB Control No.: 3145–New.

Abstract: The purpose of the National Science Foundation's (NSF) Office of Equity and Civil Rights (OECR) Awardee Survey Form is to collect awardee feedback and input on NSF's awardee term and condition that requires NSF to be notified: (1) of any findings/determinations regarding the PI or co-PI that demonstrate a violation of awardee codes of conduct, policies, regulations or statutes relating to sexual harassment, other forms of harassment, or sexual assault; or (2) if the awardee places the PI, or co-PI on administrative leave or imposes an administrative action relating to a finding or investigation of a violation of awardee policies, codes of conduct, statutes or regulations relating to sexual harassment, other forms of harassment, or sexual assault. This survey will assist NSF OECR in assessing how the term and condition has been implemented at awardee organizations and whether improvements or adjustments to the term and condition are either necessary or appropriate to maximize its efficacy and ease of use. This survey will allow us to reach out directly to NSF awardees, to include Authorized Organizational Representatives, Title IX coordinators and researchers, to better understand their respective experiences with the term and condition and to gather their comments for adjustments or enhancements to it.

Respondents: Representatives from NSF Awardee Institutions.

Estimated Number of Annual Respondents: 100.

Burden on the Public: Two methods of information collection will be used—interviews and a survey. Interviews will be conducted with no more than 70 participants, and the estimated time to complete the interview is 45 minutes based on the study team's experience with other similar studies. The total burden for the interviews is 52.5 hours.

Survey responses will be requested from approximately 2,000, with an estimated response rate of 44%. The estimated time to complete the survey is 15 minutes, based on the study team's experience with other similar studies. The total burden for the survey collection is 220 hours.

Dated: March 2, 2023.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2023–04659 Filed 3–6–23; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL TRANSPORTATION SAFETY BOARD

Sunshine Act Meetings

TIME AND DATE: 9:30am EDT, March 28, 2023.

PLACE: Virtual.

STATUS: The one item may be viewed by the public through webcast only.

MATTERS TO BE CONSIDERED:

69683 Highway Investigative Report—Multivehicle Collision Involving a Milk Tank Combination Vehicle and Stopped Traffic Queue, Phoenix, Arizona, June 9, 2021.

CONTACT PERSON FOR MORE INFORMATION: Candi Bing at (202) 590–8384 or by email at *bingc@ntsb.gov.*

Media Information Contact: Sarah Sulick by email at *sarah.sulick@ntsb.gov* or at (202) 314–6100.

This meeting will take place virtually. The public may view it through a live or archived webcast by accessing a link under ''Upcoming Events'' on the NTSB home page at *www.ntsb.gov.*

There may be changes to this event due to the evolving situation concerning the novel coronavirus (COVID–19). Schedule updates, including weather-related cancellations, are also available at *www.ntsb.gov.*

The National Transportation Safety Board is holding this meeting under the Government in the Sunshine Act, 5 U.S.C. 552(b).

Dated: Friday, March 3, 2023.

LaSean R. McCray,

Assistant Federal Register Liaison Officer.

[FR Doc. 2023–04766 Filed 3–3–23; 4:15 pm]

BILLING CODE 7533–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2023–0047]

Applications for Amendments to Facility Operating Licenses Involving Proposed No Significant Hazards Considerations and Containing Sensitive Unclassified Non-Safeguards Information and Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information

AGENCY: Nuclear Regulatory Commission.

ACTION: License amendment request; notice of opportunity to comment, request a hearing, and petition for leave to intervene; order imposing procedures.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) received and is considering approval of four amendment requests. The amendment requests are for LaSalle County Station, Units 1 and 2; Prairie Island Nuclear Generating Plants, Unit Nos. 1 and 2; Callaway Plant, Unit No. 1; and Comanche Peak Nuclear Power Plant, Unit Nos. 1 and 2. For each amendment request, the NRC proposes to determine that it involves no significant hazards consideration (NSHC). Because each amendment request contains sensitive unclassified non-safeguards information (SUNSI), an order imposes procedures to obtain access to SUNSI for contention preparation by persons who file a hearing request or petition for leave to intervene.

DATES: Comments must be filed by April 6, 2023. A request for a hearing or petitions for leave to intervene must be filed by May 8, 2023. Any potential party as defined in section 2.4 of title 10 of the *Code of Federal Regulations* (10 CFR) who believes access to SUNSI is necessary to respond to this notice must request document access by March 17, 2023.

ADDRESSES: You may submit comments by any of the following methods; however, the NRC encourages electronic comment submission through the Federal rulemaking website:

- *Federal rulemaking website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2023–0047. 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.
- *Mail comments to:* Office of Administration, Mail Stop: TWFN–7–A60M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Program Management, Announcements and Editing Staff.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Shirley Rohrer, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–415–5411, email: *Shirley.Rohrer@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2023–0047, facility name, unit number(s), docket number(s), application date, and subject when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2023–0047.
- *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.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.
- *NRC's PDR:* 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 a.m. and 4 p.m. eastern time (ET), Monday through Friday, except Federal holidays.

B. Submitting Comments

The NRC encourages electronic comment submission through the Federal rulemaking website (*https://www.regulations.gov*). Please include Docket ID NRC–2023–0047, facility name, unit number(s), docket number(s), application date, and subject, in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *https://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Background

Pursuant to Section 189a.(1)–(2) of the Atomic Energy Act of 1954, as amended (the Act), the NRC is publishing this notice. The Act requires the Commission to publish notice of any amendments issued or proposed to be issued and grants the Commission the authority to issue and make immediately effective any amendment to an operating license or combined license, as applicable, upon a determination by the Commission that such amendment involves NSHC, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This notice includes notices of amendments containing SUNSI.

III. Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve NSHC. Under the Commission's

regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated, or (2) create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown in this notice.

The Commission is seeking public comments on these proposed determinations. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendments until the expiration of 60 days after the date of publication of this notice. The Commission may issue any of these license amendments before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue any of these amendments prior to the expiration of the 30-day comment period if circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility. If the Commission takes action on any of these amendments prior to the expiration of either the comment period or the notice period, it will publish a notice of issuance in the **Federal Register**. If the Commission makes a final no significant hazards consideration determination for any of these amendments, any hearing on those amendments will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

A. Opportunity To Request a Hearing and Petition for Leave To Intervene

Within 60 days after the date of publication of this notice, any persons (petitioner) whose interest may be affected by any of these actions may file a request for a hearing and petition for leave to intervene (petition) with respect to that action. Petitions shall be filed in accordance with the Commission's ''Agency Rules of Practice and Procedure'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.309. The NRC's regulations are accessible electronically from the NRC Library on the NRC's public website at *https://www.nrc.gov/reading-rm/doc-collections/cfr.* If a petition is filed, the Commission or a presiding officer will rule on the petition and, if appropriate, a notice of a hearing will be issued.

As required by 10 CFR 2.309(d) the petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements for standing: (1) the name, address, and telephone number of the petitioner; (2) the nature of the petitioner's right to be made a party to the proceeding; (3) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the petitioner's interest.

In accordance with 10 CFR 2.309(f), the petition must also set forth the specific contentions that the petitioner seeks to have litigated in the proceeding. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner must provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion that support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to the specific sources and documents on which the petitioner intends to rely to support its position on the issue. The petition must include sufficient information to show that a genuine dispute exists with the applicant or licensee on a material issue of law or fact. Contentions must be limited to matters within the scope of the proceeding. The contention must be one that, if proven, would entitle the petitioner to relief. A petitioner who fails to satisfy the requirements at 10 CFR 2.309(f) with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene. Parties have the opportunity to participate fully in the conduct of the hearing with respect to resolution of that party's admitted contentions, including the opportunity to present evidence, consistent with the NRC's regulations, policies, and procedures.

Petitions must be filed no later than 60 days from the date of publication of this notice. Petitions and motions for leave to file new or amended contentions that are filed after the deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i) through (iii). The petition must be filed in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document.

If a hearing is requested, and the Commission has not made a final determination on the issue of NSHC, the Commission will make a final determination on the issue of NSHC. The final determination will serve to establish when the hearing is held. If the final determination is that the amendment request involves NSHC, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, then any hearing held would take place before the issuance of the amendment unless the Commission finds an imminent danger to the health or safety of the public, in which case it will issue an appropriate order or rule under 10 CFR part 2.

A State, local governmental body, Federally recognized Indian Tribe, or agency thereof, may submit a petition to the Commission to participate as a party under 10 CFR 2.309(h)(1). The petition should state the nature and extent of the petitioner's interest in the proceeding. The petition should be submitted to the Commission no later than 60 days from the date of publication of this notice. The petition must be filed in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document, and should meet the requirements for petitions set forth in this section, except that under 10 CFR 2.309(h)(2) a State, local governmental body, or Federally recognized Indian Tribe, or agency thereof does not need to address the standing requirements in 10 CFR 2.309(d) if the facility is located within its boundaries. Alternatively, a State, local governmental body, Federally recognized Indian Tribe, or agency thereof may participate as a non-party under 10 CFR 2.315(c).

If a petition is submitted, any person who is not a party to the proceeding and is not affiliated with or represented by a party may, at the discretion of the presiding officer, be permitted to make a limited appearance pursuant to the provisions of 10 CFR 2.315(a). A person making a limited appearance may make an oral or written statement of his or her position on the issues but may not otherwise participate in the proceeding. A limited appearance may be made at

any session of the hearing or at any prehearing conference, subject to the limits and conditions as may be imposed by the presiding officer. Details regarding the opportunity to make a limited appearance will be provided by the presiding officer if such sessions are scheduled.

B. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including documents filed by an interested State, local governmental body, Federally recognized Indian Tribe, or designated agency thereof that requests to participate under 10 CFR 2.315(c), must be filed in accordance with 10 CFR 2.302. The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases, to mail copies on electronic storage media, unless an exemption permitting an alternative filing method, as further discussed, is granted. Detailed guidance on electronic submissions is located in the ''Guidance for Electronic Submissions to the NRC'' (ADAMS Accession No. ML13031A056) and on the NRC's public website at *https://www.nrc.gov/site-help/e-submittals.html.*

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *Hearing.Docket@nrc.gov,* or by telephone at 301–415–1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public website at *https://www.nrc.gov/site-help/e-submittals/getting-started.html.* After a digital ID certificate is obtained and a docket created, the participant must submit adjudicatory documents in Portable Document Format. Guidance on submissions is available on the NRC's public website at *https://www.nrc.gov/site-help/electronic-sub-ref-mat.html.* A filing is considered complete at the time the document is submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. ET on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email confirming receipt of the document. The E-Filing system also distributes an email that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed to obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Electronic Filing Help Desk through the ''Contact Us'' link located on the NRC's public website at *https://www.nrc.gov/site-help/e-submittals.html,* by email to *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–866–672–7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 6 p.m., ET, Monday through Friday, except Federal holidays.

Participants who believe that they have good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted in accordance with 10 CFR 2.302(b)–(d). Participants filing adjudicatory documents in this manner are responsible for serving their documents on all other participants. Participants granted an exemption under 10 CFR 2.302(g)(2) must still meet the electronic formatting requirement in 10 CFR 2.302(g)(1), unless the participant also seeks and is granted an exemption from 10 CFR 2.302(g)(1).

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket, which is publicly available at *https://adams.nrc.gov/ehd,* unless excluded pursuant to an order of the presiding officer. If you do not have an NRC-issued digital ID certificate as previously described, click ''cancel'' when the link requests certificates and you will be automatically directed to the NRC's electronic hearing dockets where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information such as social security numbers, home addresses, or personal phone numbers in their filings unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants should not include copyrighted materials in their submission.

The following table provides the plant names, docket numbers, date of application, ADAMS accession number, and location in the application of the licensee' proposed NSHC determination. For further details with respect to these license amendment applications, see the applications for amendment, publicly available portions of which are available for public inspection in ADAMS. For additional direction on accessing information related to this document, see the ''Obtaining Information and Submitting Comments'' section of this document.

Constellation Energy Generation, LLC; LaSalle County Station, Units 1 and 2; LaSalle County, IL	
Docket No(s)	50–373, 50–374.
Application Date	November 10, 2022, as supplemented by letter(s) dated January 10, 2023.
ADAMS Accession No	ML22332A448 (package), ML23010A227.
Location in Application of NSHC	Pages 6–8 of Attachment 1.
Brief Description of Amendment(s)	The proposed amendments would modify the LaSalle County Station, Units 1 and 2, technical specifications, section 1.0 ''Definitions,'' Section 3.4.11 ''RCS [Reactor Coolant System] Pressure and Temperature (P/T) Limits,'' and section 5.0 ''Administrative Controls'' by replacing the existing reactor vessel heatup and cooldown rate limits and the P/T limit curves with references to the P/T limit report.
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	Jason Zorn, Associate General Counsel, Constellation Energy Generation, 4300 Winfield Road, Warrenville, IL 60555.
NRC Project Manager, Telephone Number	Robert Kuntz, 301–415–3733.

Northern States Power Company; Prairie Island Nuclear Generating Plant, Unit Nos. 1 and 2; Goodhue County, MN	
Docket No(s)	50–282, 50–306.
Application Date	December 2, 2022.
ADAMS Accession No	ML22343A257.
Location in Application of NSHC	Pages 10–12 of Enclosure 1.
Brief Description of Amendment(s)	The proposed amendments would revise Prairie Island Nuclear Generating Plant Technical Specification (TS) 5.6.6, ''Reactor Coolant System (RCS) Pressure and Temperature Limits Report (PTLR),'' to replace the current PTLR method with more recent analytical methods. Additionally, the proposed amendment would remove from TS 5.6.6 a reference to an American Society of Mechanical Engineers Code Case.
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	Peter M. Glass, Assistant General Counsel, Xcel Energy, 414 Nicollet Mall—401–8, Minneapolis, MN 55401.
NRC Project Manager, Telephone Number	Brent Ballard, 301–415–0680.

Union Electric Company; Callaway Plant, Unit No. 1; Callaway County, MO	
Docket No(s)	50–483.
Application Date	October 12, 2022, as supplemented by letter(s) dated December 1, 2022.
ADAMS Accession No	ML22285A115 (package), ML22335A497 (package).
Location in Application of NSHC	Pages 18–21 of Enclosure 1.
Brief Description of Amendment(s)	The proposed amendment would revise the technical specifications to allow use of Framatome GAIA fuel with M5 as a fuel cladding material. Since the Framatome GAIA fuel will use M5 fuel rod cladding, a 10 CFR 50.46 and 10 CFR part 50, appendix K, exemption request is included as part of this license amendment request. The licensee is implementing a plan that would provide for the option of transitioning from the use of fuel manufactured by Westinghouse Electric Company, as currently used in the Callaway Plant, Unit No. 1 reactor core, to the use of fuel manufactured by Framatome, Inc.
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	Jay E. Silberg, Pillsbury Winthrop Shaw Pittman LLP, 1200 17th St. NW, Washington, DC 20036.
NRC Project Manager, Telephone Number	Mahesh Chawla, 301–415–8371.

Vistra Operations Company LLC; Comanche Peak Nuclear Power Plant, Unit Nos. 1 and 2; Somervell County, TX	
Docket No(s)	50–445, 50–446.
Application Date	November 21, 2022.
ADAMS Accession No	ML22325A324.
Location in Application of NSHC	Pages 7–8 of the Enclosure.
Brief Description of Amendment(s)	The proposed amendments would revise the technical specifications (TSs) to adopt WCAP–16996–P–A, Revision 1, ''Realistic LOCA [Loss-of-Coolant Accident] Evaluation Methodology Applied to the Full Spectrum of Break Sizes (FULL SPECTRUM LOCA Methodology)''; to revise the TS reactor core safety limit to reflect the peak fuel centerline melt temperature specified in WCAP–17642–P–A, Revision 1, ''Westinghouse Performance Analysis and Design Model (PAD5)''; and to revise the TS reactor core fuel assemblies design feature by removing the discussion of Zircalloy fuel rods and ZIRLO lead test assemblies.
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	Timothy P. Matthews, Esq., Morgan, Lewis and Bockius LLP, 1111 Pennsylvania Avenue NW, Washington, DC 20004.
NRC Project Manager, Telephone Number	Dennis Galvin, 301–415–6256.

Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information for Contention Preparation

Constellation Energy Generation, LLC; LaSalle County Station, Units 1 and 2; LaSalle County, IL

Northern States Power Company; Prairie Island Nuclear Generating Plant, Unit Nos. 1 and 2; Goodhue County, MN

Union Electric Company; Callaway Plant, Unit No. 1; Callaway County, MO

Vistra Operations Company, LLC; Comanche Peak Nuclear Power Plant, Unit Nos. 1 and 2; Somervell County, TX

A. This Order contains instructions regarding how potential parties to this proceeding may request access to documents containing Sensitive Unclassified Non-Safeguards Information (SUNSI).

B. Within 10 days after publication of this notice of hearing or opportunity for hearing, any potential party who believes access to SUNSI is necessary to respond to this notice may request access to SUNSI. A ''potential party'' is any person who intends to participate as a party by demonstrating standing and filing an admissible contention under 10 CFR 2.309. Requests for access to SUNSI submitted later than 10 days after publication of this notice will not be considered absent a showing of good cause for the late filing, addressing why the request could not have been filed earlier.

C. The requestor shall submit a letter requesting permission to access SUNSI to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, and provide a copy to the Deputy General Counsel for Licensing, Hearings, and Enforcement, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. The expedited delivery or courier mail address for both offices is: U.S. Nuclear Regulatory Commission, 11555 Rockville Pike, Rockville, Maryland 20852. The email addresses for the Office of the Secretary and the Office of the General Counsel are *Hearing.Docket@nrc.gov* and *RidsOgcMailCenter.Resource@nrc.gov,* respectively.[1] The request must include the following information:

(1) A description of the licensing action with a citation to this **Federal Register** notice;

(2) The name and address of the potential party and a description of the potential party's particularized interest that could be harmed by the action identified in C.(1); and

(3) The identity of the individual or entity requesting access to SUNSI and the requestor's basis for the need for the information in order to meaningfully participate in this adjudicatory proceeding. In particular, the request must explain why publicly available versions of the information requested would not be sufficient to provide the basis and specificity for a proffered contention.

D. Based on an evaluation of the information submitted under paragraph C, the NRC staff will determine within 10 days of receipt of the request whether:

(1) There is a reasonable basis to believe the petitioner is likely to establish standing to participate in this NRC proceeding; and

(2) The requestor has established a legitimate need for access to SUNSI.

E. If the NRC staff determines that the requestor satisfies both D.(1) and D.(2), the NRC staff will notify the requestor in writing that access to SUNSI has been granted. The written notification will contain instructions on how the requestor may obtain copies of the requested documents, and any other conditions that may apply to access to those documents. These conditions may include, but are not limited to, the signing of a Non-Disclosure Agreement or Affidavit, or Protective Order[2] setting forth terms and conditions to prevent the unauthorized or inadvertent disclosure of SUNSI by each individual who will be granted access to SUNSI.

F. Filing of Contentions. Any contentions in these proceedings that are based upon the information received as a result of the request made for SUNSI must be filed by the requestor no later than 25 days after receipt of (or access to) that information. However, if more than 25 days remain between the petitioner's receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI contentions by that later deadline.

G. Review of Denials of Access.

(1) If the request for access to SUNSI is denied by the NRC staff after a determination on standing and requisite need, the NRC staff shall immediately notify the requestor in writing, briefly stating the reason or reasons for the denial.

(2) The requestor may challenge the NRC staff's adverse determination by filing a challenge within 5 days of receipt of that determination with: (a) the presiding officer designated in this proceeding; (b) if no presiding officer has been appointed, the Chief Administrative Judge, or if this individual is unavailable, another administrative judge, or an Administrative Law Judge with jurisdiction pursuant to 10 CFR 2.318(a); or (c) if another officer has been designated to rule on information access issues, with that officer.

(3) Further appeals of decisions under this paragraph must be made pursuant to 10 CFR 2.311.

H. Review of Grants of Access. A party other than the requestor may challenge an NRC staff determination granting access to SUNSI whose release would harm that party's interest independent of the proceeding. Such a challenge must be filed within 5 days of the notification by the NRC staff of its grant of access and must be filed with: (a) the presiding officer designated in this proceeding; (b) if no presiding officer has been appointed, the Chief Administrative Judge, or if this individual is unavailable, another administrative judge, or an Administrative Law Judge with jurisdiction pursuant to 10 CFR 2.318(a); or (c) if another officer has been designated to rule on information access issues, with that officer.

If challenges to the NRC staff determinations are filed, these procedures give way to the normal process for litigating disputes concerning access to information. The availability of interlocutory review by the Commission of orders ruling on such NRC staff determinations (whether granting or denying access) is governed by 10 CFR 2.311.[3]

I. The Commission expects that the NRC staff and presiding officers (and any other reviewing officers) will consider and resolve requests for access to SUNSI, and motions for protective

[1] While a request for hearing or petition to intervene in this proceeding must comply with the filing requirements of the NRC's ''E-Filing Rule,'' the initial request to access SUNSI under these procedures should be submitted as described in this paragraph.

[2] Any motion for Protective Order or draft Non-Disclosure Affidavit or Agreement for SUNSI must be filed with the presiding officer or the Chief Administrative Judge if the presiding officer has not yet been designated, within 30 days of the deadline for the receipt of the written access request.

[3] Requestors should note that the filing requirements of the NRC's E-Filing Rule (72 FR 49139; August 28, 2007, as amended at 77 FR 46562; August 3, 2012, 78 FR 34247, June 7, 2013) apply to appeals of NRC staff determinations (because they must be served on a presiding officer or the Commission, as applicable), but not to the initial SUNSI request submitted to the NRC staff under these procedures.

orders, in a timely fashion in order to minimize any unnecessary delays in identifying those petitioners who have standing and who have propounded contentions meeting the specificity and basis requirements in 10 CFR part 2. The attachment to this Order summarizes the general target schedule for processing and resolving requests under these procedures.

It is so ordered.

Dated: February 13, 2023.

For the Nuclear Regulatory Commission.

Brooke P. Clark,

Secretary of the Commission.

ATTACHMENT 1—GENERAL TARGET SCHEDULE FOR PROCESSING AND RESOLVING REQUESTS FOR ACCESS TO SENSITIVE UNCLASSIFIED NON-SAFEGUARDS INFORMATION IN THIS PROCEEDING

Day	Event/activity
0	Publication of **Federal Register** notice of hearing or opportunity for hearing, including order with instructions for access requests.
10	Deadline for submitting requests for access to Sensitive Unclassified Non-Safeguards Information (SUNSI) with information: supporting the standing of a potential party identified by name and address; describing the need for the information in order for the potential party to participate meaningfully in an adjudicatory proceeding.
60	Deadline for submitting petition for intervention containing: (i) demonstration of standing; and (ii) all contentions whose formulation does not require access to SUNSI (+25 Answers to petition for intervention; +7 petitioner/requestor reply).
20	U.S. Nuclear Regulatory Commission (NRC) staff informs the requestor of the staff's determination whether the request for access provides a reasonable basis to believe standing can be established and shows need for SUNSI. (NRC staff also informs any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information.) If NRC staff makes the finding of need for SUNSI and likelihood of standing, NRC staff begins document processing (preparation of redactions or review of redacted documents).
25	If NRC staff finds no ''need'' or no likelihood of standing, the deadline for petitioner/requestor to file a motion seeking a ruling to reverse the NRC staff's denial of access; NRC staff files copy of access determination with the presiding officer (or Chief Administrative Judge or other designated officer, as appropriate). If NRC staff finds ''need'' for SUNSI, the deadline for any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information to file a motion seeking a ruling to reverse the NRC staff's grant of access.
30	Deadline for NRC staff reply to motions to reverse NRC staff determination(s).
40	(Receipt +30) If NRC staff finds standing and need for SUNSI, deadline for NRC staff to complete information processing and file motion for Protective Order and draft Non-Disclosure Agreement or Affidavit. Deadline for applicant/licensee to file Non-Disclosure Agreement or Affidavit for SUNSI.
A	If access granted: issuance of presiding officer or other designated officer decision on motion for protective order for access to sensitive information (including schedule for providing access and submission of contentions) or decision reversing a final adverse determination by the NRC staff.
A + 3	Deadline for filing executed Non-Disclosure Agreements or Affidavits. Access provided to SUNSI consistent with decision issuing the protective order.
A + 28	Deadline for submission of contentions whose development depends upon access to SUNSI. However, if more than 25 days remain between the petitioner's receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of hearing or notice of opportunity for hearing), the petitioner may file its SUNSI contentions by that later deadline.
A + 53	(Contention receipt +25) Answers to contentions whose development depends upon access to SUNSI.
A + 60	(Answer receipt +7) Petitioner/Intervenor reply to answers.
A + 60	Decision on contention admission.

[FR Doc. 2023–03293 Filed 3–6–23; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2022–0215]

Material Compatibility for Non-Light Water Reactors

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft interim staff guidance; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing for public comment on its draft Interim Staff Guidance (ISG) ''Material Compatibility for non-Light Water Reactors, DANU–ISG–2023–01.'' The purpose of this draft ISG is to assist the NRC staff in reviewing certain applications for construction and operation of non-light water reactor designs, including power and non-power reactors.

DATES: Submit comments by May 8, 2023. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received before this date.

ADDRESSES: You may submit comments by any of the following methods; however, the NRC encourages electronic comment submission through the Federal rulemaking website:

- *Federal rulemaking website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2022–0215. 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 individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* Office of Administration, Mail Stop: TWFN–7–A60M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Program Management, Announcements and Editing Staff.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Meg Audrain, telephone: 301–415–2133, email: *Margaret.Audrain@nrc.gov* and Jordan Hoellman, telephone: 301–415–5481, email: *Jordan.Hoellman2@nrc.gov*. Both are staff of the Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2022–0215 when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2022–0215.
- *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.* The draft ISG, ''Material Compatibility for non-Light Water Reactors, DANU–ISG–2023–01'' is available in ADAMS under Accession No. ML22203A175.
- *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 a.m. and 4 p.m. eastern time (ET), Monday through Friday, except Federal holidays.

B. Submitting Comments

The NRC encourages electronic comment submission through the Federal rulemaking website (*https://www.regulations.gov*). Please include Docket ID NRC–2022–0215 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *https://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Background

As part of its review of advanced non-light water reactor applications, the NRC determines whether materials proposed to be used will allow components to fulfill design requirements for the design life, or that adequate surveillance and monitoring programs are in place. NRC regulations in part 50 and part 52 of title 10 of the *Code of Federal Regulations* (10 CFR) include requirements for material qualification and performance monitoring. The NRC endorsed American Society of Mechanical Engineers (ASME) Code Section III, Division 5, ''High Temperature Reactors'' (Section III–5), with conditions, in Revision 2 of Regulatory Guide 1.87, ''Acceptability of ASME Code, Section III, Division 5, 'High Temperature Reactors,' '' (ADAMS Accession No. ML22101A263).

III. Discussion

The purpose of this draft ISG is to aid the NRC staff reviewing non-light water reactor applications for a construction permit or operating license under 10 CFR part 50 or for a design certification, combined license, standard design approval, or manufacturing license under 10 CFR part 52 that propose to use materials allowed under Section III–5. Section III–5 specifies the mechanical properties and allowable stresses to be used for design of components in high temperature reactors. Because Section III–5 states that it does not provide methods to evaluate deterioration that may occur in service as a result of corrosion, mass transfer phenomena, radiation effects, or other material instabilities, this draft ISG identifies information that the staff should consider as part of its review of a non-light water reactor application to review applicable design requirements including qualification and monitoring programs for safety-significant structures, systems, and components.

Dated: March 1, 2023.

For the Nuclear Regulatory Commission.

Steven T. Lynch,

Chief, Advanced Reactor Policy Branch, Division of Advanced Reactors and Non-Power Production and Utilization Facilities, Office of Nuclear Reactor Regulation.

[FR Doc. 2023–04577 Filed 3–6–23; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

Request for Information; NSPM 33 Research Security Programs Standard Requirement

AGENCY: Office of Science and Technology Policy (OSTP).

ACTION: Notice and request for comments.

SUMMARY: The Office of Science and Technology Policy (OSTP) requests comments from the public on draft Research Security Programs Standard Requirement developed in response to National Security Presidential Memorandum 33 on National Security Strategy for United States Government-Supported Research and Development (R&D). The draft Standard Requirement has been created by OSTP, together with Federal agencies and the Office of Management and Budget, to ensure that there is uniformity across Federal research agencies in implementing this requirement.

DATES: Interested persons and organizations are invited to submit comments on or before 5 p.m. ET June 5, 2023.

ADDRESSES: Submit comments electronically to *researchsecurity@ostp.eop.gov* with the subject line *Comment on Research Security Programs* by the deadline. Due to time constraints, mailed paper submissions will not be accepted.

Instructions: Response to this notice is voluntary. Responses to this notice may be used by the government for program planning on a non-attribution basis. OSTP therefore requests that no business proprietary information or copyrighted information be submitted in response to this notice. Please note that the U.S. Government will not pay for response preparation, or for the use of any information contained in the response.

Responses may address one or as many topics as desired from the enumerated list provided in this request for comment, noting the corresponding number of the topic(s) to which the response pertains. Submissions must not exceed 5 pages (exclusive of cover page) in 12-point or larger font, with a page number provided on each page. Responses should include the name of the person(s) or organization(s) filing the comment, as well as the respondent type (*e.g.,* academic institution, advocacy group, professional society, community-based organization, industry, member of the public, government, other). Respondent's role in the organization may also be

provided (*e.g.,* researcher, administrator, student, program manager, journalist) on a voluntary basis.

Please also organize your responses such that substantive comments are at the beginning of the document and more procedural and/or technical comments are at the end. This format will help us to absorb and respond to your comments in a more organized way.

Comments containing references, studies, research, and other empirical data that are not widely published should include copies or electronic links of the referenced materials; these materials, as well as a list of references, do not count toward the 5-page limit. No business proprietary information, copyrighted information, or personally identifiable information (aside from that requested above) should be submitted in response to this request for comment. Comments submitted in response to this notice are subject to the Freedom of Information Act. Comments submitted may be posted online or otherwise released publicly.

FOR FURTHER INFORMATION CONTACT: Direct questions to Kei Koizumi at *researchsecurity@ostp.eop.gov;* tel: 202–456–4444.

SUPPLEMENTARY INFORMATION: National Security Presidential Memorandum 33 provides for a National Security Strategy for United States Government—Supported Research and Development. Section 4(g) directs that, ''heads of funding agencies shall require that research institutions receiving Federal science and engineering support in excess of 50 million dollars per year certify to the funding agency that the institution has established and operates a research security program. Institutional research security programs should include elements of cyber security, foreign travel security, insider threat awareness and identification, and, as appropriate, export control training.''

On January 4, 2022, the OSTP's National Science and Technology Council released Guidance for Implementing National Security Presidential Memorandum 33 (NSPM–33). NSPM–33 charges OSTP with ''coordina[ting] activities to protect Federally funded R&D from foreign government interference, and outreach to the United States scientific and academic communities to enhance awareness of risks to research security and Federal Government actions to address these risks.'' A similar charge is captured in the National Defense Authorization Act of 2020.[1]

The resulting Guidance, called for by the Director of OSTP, delivers on three key priorities, consistent with the values of the Biden-Harris Administration: (1) protecting America's security *AND* openness; (2) being clear in our delivery of guidance and information to impacted communities, so that compliance with NSPM–33 is easy, straightforward, and minimally burdensome; and (3) ensuring that our policies do not fuel xenophobia or prejudice.

The Guidance also captured next steps regarding the implementation of a Standard Requirement for Research Security Programs (hereinafter shortened to 'Standard Requirement'), stating on page 19: ''OSTP, in consultation with the NSTC Subcommittee on Research Security, OMB, and external stakeholders, will develop a standardized requirement for uniform implementation across research agencies. Following a 90-day external engagement period, OSTP will complete the standardized requirement in the subsequent 120 days, and, upon completion, work with OMB to develop a plan to implement the standardized requirement. Upon receipt of the standards, relevant research agencies should engage with external stakeholders to ensure that program requirements are appropriate to the broad range of organizations that are subject to the requirement.''

In fulfillment of this statement, a draft Standard Requirement has been completed and is available for review at: *https://www.whitehouse.gov/wp-content/uploads/2023/02/RS_Programs_Guidance_public_comment.pdf.*

To enable further coordination, OSTP is leading engagement with external stakeholders, as the Guidance described. This request for comment is an important source of engagement and is meant to give the public an opportunity to review and provide feedback on the draft Standard Requirement. Through this request for comment, OSTP seeks public input on the Standard Requirement, with special attention to equity, clarity, feasibility, burden, and compliance.

Scope: OSTP invites comment from any interested stakeholders. In particular, OSTP is interested in input from research organizations that will be subject to the Research Security Program requirement, researchers within those organizations, professional organizations representing those organizations, and organizations representing diverse interests across the U.S. research ecosystem.

Information Requested: Respondents may provide information for one or more of the topics included below. Respondents are asked to note the corresponding number/s to which responses pertain.

1. *Equity.* The NSPM–33 implementation Guidance requires that research security policies and practices are implemented in an equitable and non-discriminatory fashion. Are there any areas of the Standard Requirement that have not, in your view, upheld the fundamental commitments to equity and non-discrimination?

2. *Clarity.* It is essential that the Research Security Programs Standard Requirement is clear. Clarity enables equity, transparency, and compliance. Comments on clarity throughout the Standard Requirement are especially appreciated, particularly as they pertain to the ability of organizations to understand and meet the provisions of the Standard Requirement. Your perspectives on the extent to which the Standard Requirement is clear and allows for straightforward adoption are of great interest.

3. *Feasibility.* The Research Security Program Standard Requirement will be most successful if covered organizations view adoption as feasible. With that in mind, are there aspects of the Standard Requirement that are concerning in terms of implementation? If so, how and why?

4. *Burden.* Closely related to feasibility is burden. Engagement with the research community has allowed us to understand that concerns about burden, whether in regard to financial or administrative burden, are high. Provisions in the Standard Requirement have been scoped with an aim to lessen burden, such as centralized certification on SAM.gov and technical assistance for development of research security training. Are there other measures that would help to lower the burden on the research community in implementing the Standard Requirement?

5. *Compliance.* The draft Standard Requirement suggests self-certification as the primary model of compliance with the requirements, with initially certification required one year after the issuance of the Standard Requirement.

[1] The language from the 2020 NDAA (Public Law 116–92), captured in Sec. 1746. (a), states: ''In general.—The Director of the Office of Science and Technology Policy, acting through the National Science and Technology Council, in consultation with the National Security Advisor, shall establish or designate an interagency working group to coordinate activities to protect federally funded research and development from foreign interference, cyber attacks, theft, or espionage and to develop common definitions and best practices for Federal science agencies and grantees, while accounting for the importance of the open exchange of ideas and international talent required for scientific progression and American leadership in science and technology.''

What are your perspectives on these approaches? Are there others that should be considered?

Dated: March 2, 2023.

Stacy Murphy,

Deputy Chief Operations Officer/Security Officer.

[FR Doc. 2023–04660 Filed 3–6–23; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–97001; File No. SR–FICC–2023–003]

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Notice of Filing of Proposed Rule Change To Revise the Description of the Stressed Period Used To Calculate the Value-at-Risk Charge and Make Other Changes

March 1, 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 February 17, 2023, Fixed Income Clearing Corporation (''FICC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the clearing agency. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change [3] consists of amendments to the GSD Methodology Document—GSD Initial Market Risk Margin Model (''GSD QRM Methodology Document'') [4] and the MBSD Methodology and Model Operations Document—MBSD Quantitative Risk Model (''MBSD QRM Methodology Document'',[5] and collectively with the GSD QRM Methodology Document, the ''QRM Methodology Documents'') in order to revise the description of the stressed period used to calculate the VaR Charge (as defined below). FICC is also proposing to amend the GSD QRM Methodology Document in order to clarify the language describing the floor parameters used for the calculation of the VaR Floor. In addition, FICC is proposing to amend the QRM Methodology Documents to make certain technical changes, as described in greater detail below.

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the clearing agency 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 clearing agency has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

FICC has observed significant volatility in the U.S. government securities market due to tightening monetary policy, increasing inflation, and recession fears. The significant volatility has led to greater risk exposures for FICC. In order to mitigate the increased risk exposures, FICC has to quickly and timely respond to rapidly changing market conditions. For example, in order to respond to rapidly changing market conditions, FICC may need to quickly and timely adjust the look-back period that FICC uses for purposes of calculating the VaR Charge with an appropriate stressed period, as needed, to enable FICC to calculate and collect adequate margin from members. Accordingly, FICC is proposing to amend the QRM Methodology Documents by revising the description of the stressed period used to calculate the VaR Charge in order to enable FICC to quickly and timely adjust the look-back period used for calculating the VaR Charge with an appropriate stressed period, as needed. Adjustments to the look-back period could affect the amount of the VaR Charge that GSD Members are assessed by either increasing or decreasing such charge to reflect the level of risk the activities of the GSD Members presented to FICC.

FICC is also proposing to amend the GSD QRM Methodology Document in order to clarify the language describing the floor parameters used for the calculation of the VaR Floor. In addition, FICC is proposing to amend the QRM Methodology Documents to make certain technical changes.

FICC, through GSD and MBSD, serves as a central counterparty (''CCP'') and provider of clearance and settlement services for the U.S. government securities and mortgage-backed securities markets. A key tool that FICC uses to manage its credit exposures to its members is the daily collection of margin from each member. The aggregated amount of all GSD and MBSD members' margin constitutes the GSD Clearing Fund and MBSD Clearing Fund (collectively referred to herein as the ''Clearing Fund''), which FICC would be able to access should a defaulted member's own margin be insufficient to satisfy losses to FICC caused by the liquidation of that member's portfolio. Each member's margin consists of a number of applicable components, including a value-at-risk (''VaR'') charge (''VaR Charge'') designed to capture the potential market price risk associated with the securities in a member's portfolio. The VaR Charge is typically the largest component of a member's margin requirement. The VaR Charge is designed to cover FICC's projected liquidation losses with respect to a defaulted member's portfolio at a 99% confidence level.

FICC calculates VaR Charge by using a methodology referred to as the sensitivity approach. The sensitivity approach leverages external vendor expertise in supplying the market risk attributes, which would then be incorporated by FICC into the GSD and MBSD models to calculate the VaR Charge. Specifically, FICC sources security-level risk sensitivity data and

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Capitalized terms used herein and not defined shall have the meaning assigned to such terms in the FICC's Government Securities Division (''GSD'') Rulebook (''GSD Rules'') and FICC's Mortgage-Backed Securities Division (''MBSD'') Clearing Rules (''MBSD Rules'', and together with the GSD Rules, the ''Rules''), *available at http://www.dtcc.com/legal/rules-and-procedures.aspx.*

[4] The GSD QRM Methodology Document was filed as a confidential exhibit in the rule filing and advance notice for GSD sensitivity VaR. *See* Securities Exchange Act Release Nos. 83362 (June 1, 2018), 83 FR 26514 (June 7, 2018) (SR–FICC–2018–001) and 83223 (May 11, 2018), 83 FR 23020 (May 17, 2018) (SR–FICC–2018–801). The GSD QRM Methodology has been subsequently amended. *See* Securities Exchange Act Release Nos. 85944 (May 24, 2019), 84 FR 25315 (May 31, 2019) (SR–FICC–2019–001), 90182 (October 14, 2020), 85 FR 66630 (October 20, 2020) (SR–FICC–2020–009), 93234 (October 1, 2021), 86 FR 55891 (October 7, 2021) (SR–FICC–2021–007), and 95605 (August 25, 2022), 87 FR 53522 (August 31, 2022) (SR–FICC–2022–005).

[5] The MBSD QRM Methodology was filed as a confidential exhibit in the rule filing and advance notice for MBSD sensitivity VaR. *See* Securities Exchange Act Release Nos. 79868 (January 24, 2017), 82 FR 8780 (January 30, 2017) (SR–FICC–2016–007) and 79843 (January 19, 2017), 82 FR 8555 (January 26, 2017) (SR–FICC–2016–801). The MBSD QRM Methodology has been amended. *See* Securities Exchange Act Release Nos. 85944 (May 24, 2019), 84 FR 25315 (May 31, 2019) (SR–FICC–2019–001), 90182 (October 14, 2020), 85 FR 66630 (October 20, 2020) (SR–FICC–2020–009), 92303 (June 30, 2021), 86 FR 35854 (July 7, 2021) (SR–FICC–2020–017) and 95070 (June 8, 2022), 87 FR 36014 (June 14, 2022) (SR–FICC–2022–002).

relevant historical risk factor time series from an external vendor for all eligible securities. The sensitivity data is generated by a vendor based on its econometric, risk and pricing models.

(1) Revise the Description of the Stressed Period Used To Calculate the VaR Charge

The sensitivity approach provides FICC with the ability to adjust the look-back period that FICC uses for purposes of calculating the VaR Charge. In particular, the sensitivity approach leverages external vendor data to incorporate a look-back period of 10 years, which allows the GSD and MBSD models to capture periods of historical volatility. In the event FICC observes that the 10-year look-back period does not contain a sufficient number of stressed market conditions, FICC will include an additional period of historically observed stressed market conditions to the 10-year look-back period.

The QRM Methodology Documents currently describe the additional stressed period as a configurable continuous period (typically one year). In addition, the GSD QRM Methodology Document further specifies the duration of the stressed period as one-year of stressed market condition. To ensure the GSD and MBSD models are performing as designed, FICC regularly reviews metrics from various assessments, such as the proportion of failure (''POF'') test being used to determine whether the number of member deficiencies, if any, are statistically significant. While recent POF test results indicate that the GSD and MBSD models still perform as designed, FICC has observed a number of instances, for example in certain U.S. Treasury security tenors, where market volatility produced price returns in excess of the 99% confidence level calibration of the VaR models in recent months due to heightened volatility in the market.

In order to provide FICC with more flexibility with respect to the inclusion of sufficient number of stressed market conditions in the look-back period so FICC can respond to rapidly changing market conditions more quickly and timely, FICC is proposing to eliminate this detailed description of the stressed period from Sections 2.10.1 (The list of key parameters) and A4.5.16.1 (Stressed VaR Calculation) of the GSD QRM Methodology Document, as well as Section 5.17.1 (Stressed VaR Calculation) of the MBSD QRM Methodology Document, and replace it with a more general description. Specifically, the proposed new description of the stressed period would provide in Section A4.5.16.1 of the GSD QRM Methodology Document and Section 5.17.1 of the MBSD QRM Methodology Document that the ''stressed period'' shall be a period of time that FICC may add, in its sole discretion, to the 10-year historical look-back period that includes stressed market conditions that are not otherwise captured in the look-back period. The proposed new description would also provide that a stressed period, if added to the look-back period, shall be no shorter than 6 months and no longer than 36 months, and comprised of either one continuous period specified by a start date and an end date or comprised of more than one non-continuous period. In addition, the proposed new description would provide that in determining whether it is necessary to add a stressed period to the 10-year historical look-back period and the appropriate length of the added stressed period, FICC would review all relevant information available to it at the time of such determination, including, for example, (1) the nature of the stressed market conditions in the current 10-year historical look-back period, (2) backtesting coverage ratios, and (3) market volatility observed by FICC, in its sole discretion. Furthermore, the proposed new description would provide that changes to the stressed period shall be approved through FICC's model governance process, and any current stressed period shall be documented and published to FICC members at the time such stressed period becomes effective.

FICC believes that having a more general description would enable FICC to adjust the stressed period more quickly and timely because the adjustment process, such as constructing a stressed period comprised of more than one year's historical data that may not be continuous,[6] would be more streamlined and not require a rule change.[7] By being able to quickly and timely make adjustments to the stressed period, FICC would have the flexibility to respond to rapidly changing market conditions more quickly and timely. Having the flexibility to respond to rapidly changing market conditions more quickly and timely would in turn help better ensure that FICC calculates and collects adequate margin from members as well as risk manages its credit exposures to its members.[8]

Nonetheless, as described in the QRM Methodology Documents, the look-back period would continue to be tracked in the monthly model parameter report and any changes to the look-back period[9] would continue to be subject to DTCC's internal model governance process as described in the Clearing Agency Model Risk Management Framework.[10]

(2) Clarify the Floor Parameter Language

The VaR Charge is subject to a minimum amount (the ''VaR Floor'') that FICC employs as an alternative to the amount calculated by the VaR model for portfolios where the VaR Floor[11] is greater than the model-based charge amount. A VaR Floor addresses the risk that the VaR model may calculate too low a VaR Charge for certain portfolios where the VaR model applies substantial risk offsets among long and short positions in different classes of securities that have a high degree of historical correlation. Because this high degree of historical price correlation may not apply in future changing market conditions, FICC applies a VaR Floor in order to protect FICC against such risk in the event that FICC is

[6] FICC believes constructing a longer than one-year stressed period, or a stressed period that may not be continuous, would enable FICC to (i) better cope with market volatility spikes by increasing the calibrated volatility level of the VaR models, *i.e.,* longer stressed periods generally result in higher calibrated volatility levels, and (ii) capture a sufficient number of stressed market conditions.

[7] Pursuant to Section 806(e)(1) of Title VIII of the Dodd-Frank Wall Street Reform and Consumer Protection Act and Rule 19b–4(n)(1)(i) under the Act, if a change materially affects the nature or level of risks presented by FICC, then FICC is required to file an advance notice filing. 12 U.S.C. 5465(e)(1) and 17 CFR 240.19b–4(n)(1)(i).

[8] FICC is currently contemplating changing the stressed period at GSD from one year to 1.5 year while keeping the current one-year stressed period at MBSD unchanged.

[9] The look-back period includes the stressed period, if any.

[10] The Clearing Agency Model Risk Management Framework (''Framework'') sets forth the model risk management practices that FICC and its affiliates The Depository Trust Company (''DTC'') and National Securities Clearing Corporation (''NSCC,'' and together with FICC and DTC, the ''Clearing Agencies'') follow to identify, measure, monitor, and manage the risks associated with the design, development, implementation, use, and validation of quantitative models. The Framework is filed as a rule of the Clearing Agencies. *See* Securities Exchange Act Release Nos. 81485 (August 25, 2017), 82 FR 41433 (August 31, 2017) (File Nos. SR–DTC–2017–008; SR–FICC–2017–014; SR–NSCC–2017–008), 88911 (May 20, 2020), 85 FR 31828 (May 27, 2020) (File Nos. SR–DTC–2020–008; SR–FICC–2020–004; SR–NSCC–2020–008), 92380 (July 13, 2021), 86 FR 38140 (July 19, 2021) (File No. SR–FICC–2021–006), 92381 (July 13, 2021), 86 FR 38163 (July 19, 2021) (File No. SR–NSCC–2021–008), 92379 (July 13, 2021), 86 FR 38143 (July 19, 2021) (File No. SR–DTC–2021–003), 94271 (February 17, 2022), 87 FR 10411 (February 24, 2022) (File No. SR–FICC–2022–001), 94272 (February 17, 2022) 87 FR 10419 (February 24, 2022) (File No. SR–NSCC–2022–001), and 94273 (February 17, 2022), 87 FR 10395 (February 24, 2022) (File No. SR–DTC–2022–001).

[11] *See* definition of ''VaR Charge'' in GSD Rule 1 (Definitions), *supra* note 3.

required to liquidate a large securities portfolio in stressed market conditions.[12]

VaR Floor at GSD is determined by multiplying the absolute value of the sum of the Net Long Positions and Net Short Positions of Eligible Securities, grouped by product and remaining maturity, by a percentage designated by FICC from time to time for such group. Currently, the GSD Rules provide that for (i) U.S. Treasury and agency securities, such percentage shall be a fraction, no less than 10%, of the historical minimum volatility of a benchmark fixed income index (*i.e.,* haircut rate) for such group by product and remaining maturity and (ii) mortgage-backed securities, such percentage shall be a fixed percentage that is no less than 0.05%.[13] However, the GSD QRM Methodology Document specifies these percentages (referred to as floor parameters therein) for government bond and MBS Pool as simply 10% and 5 Bps, respectively.

To avoid inconsistency with the GSD Rules, FICC is proposing clarifying changes to the floor parameter language in Section 2.10.1 of the GSD QRM Methodology Document. Specifically, FICC is proposing to revise the description of the floor parameter for government bond by deleting the reference to 10% and adding language that state the parameter is a percentage as designated by FICC from time to time pursuant to the GSD Rules and applied to the haircut rate of the respective government bonds. Similarly, for the description of the floor parameter for MBS Pool, FICC is proposing to revise it by deleting the reference to 5 Bps and adding language that state the parameter is a percentage as designated by FICC from time to time pursuant to the GSD Rules.

In addition, FICC is proposing to add a sentence making it clear that the floor parameters are tracked in the monthly model parameter report and that any future changes to the floor parameters would be subject to DTCC's internal model governance process set forth in the Clearing Agency Model Risk Management Framework.[14]

Lastly, consistent with the proposed changes to the floor parameters described above, FICC is proposing to delete from the GSD QRM Methodology Document the language in Sections 3.2.2 (Calculation of haircut of Treasury and Agency bonds without sensitivity analytics data) and 3.5 (Total VaR, Core Charge and Standalone VaR) that references the floor parameters for government bond and MBS pool positions being tentatively set to 10% and 0.05%, respectively.

(3) Technical Changes

FICC is proposing to make certain technical changes to the GSD QRM Methodology Document. Specifically, FICC proposes to clarify in Sections 1.1 (Purpose and scope), A4.5.16 (Stressed VaR), and A4.5.16.1 (Stressed VaR Calculation) of the GSD QRM Methodology Document that ''SVaR'' refers to sensitivity VaR and not stressed VaR. In addition, FICC is also proposing to fix typographical errors in Sections 2.10.1 (The list of key parameters) and A4.5.16.1 (Stressed VaR Calculation) of the GSD QRM Methodology Document.

Impact Study

FICC conducted an impact study for the period from January 2021 to October 2022 (''Impact Study'') which reviewed the overall impact of the contemplated change to the stressed period (*i.e.,* changing the current stressed period of one year (September 2008 to August 2009) to a stressed period of 1.5 years (January 2008 to June 2009) on the GSD VaR model backtesting coverage and VaR Charge amounts as well as the effect on the GSD Members during the Impact Study period. The results of the Impact Study indicates that, if a stressed period of 1.5 years had been in place for GSD, the GSD's rolling 12-month VaR model backtesting coverage ratio would have improved by 29 bps (from 98.52% to 98.81%) as of October 2022 and the associated VaR Charge increase for GSD would be approximately $387 million (or 2.1%) on average during that period.

The three GSD Members with the largest average daily VaR Charge increases in dollar amount during the Impact Study period would have had increases of approximately $43.7 million, $43.24 million, and $39.55 million representing an average daily increase for such Members of 3.4%, 4.4%, and 2.8%, respectively. The three GSD Members with the largest average daily VaR Charge increases as a percentage of VaR Charges paid by such Members during the Impact Study period would have had an average daily increase of 16.6%, 15.7% and 12.7%, respectively, had the contemplated stressed period been in place.

The three GSD Members with the largest average daily VaR Charge decreases in dollar amount during the Impact Study period would have had decreases of approximately $8.59 million, $7.93 million, and $7.24 million representing an average daily decrease for such Members of 4.3%, 1.3%, and 2.9%, respectively. The three GSD Members with the largest average daily VaR Charge decreases as a percentage of VaR Charges paid by such Members during the Impact Study period would have had an average daily decrease of 4.3%, 4.0% and 3.4%, respectively, had the contemplated stressed period been in place.

Implementation Timeframe

Subject to approval by the Commission, FICC would implement the proposed rule changes by no later than 60 Business Days after such approval and would announce the effective date of the proposed changes by an Important Notice posted to its website.

2. Statutory Basis

FICC believes this proposal is consistent with the requirements of the Act, and the rules and regulations thereunder applicable to a registered clearing agency. Specifically, FICC believes that the proposed changes to the QRM Methodology Documents described above are consistent with Section 17A(b)(3)(F) of the Act, for the reasons described below.[15]

Section 17A(b)(3)(F) of the Act requires, in part, that the rules of a clearing agency be designed to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible.[16]

FICC believes that the proposed changes to the QRM Methodology Documents described in Item II(A)1(1) above to revise the description of the stressed period used to calculate the VaR Charge are designed to assure the safeguarding of securities and funds which are in the custody or control of FICC or for which it is responsible, consistent with Section 17A(b)(3)(F) of the Act.[17] As described above, FICC believes these proposed changes would provide FICC with more flexibility with respect to the adjustment of the stressed period and thus allow FICC to respond to rapidly changing market conditions more quickly and timely. FICC believes that having more flexibility with respect to this adjustment would enable FICC to more accurately calculate the necessary margin from members while continuing to limit its exposure to members such that, in the event of a member default, FICC's operations would not be disrupted and non-defaulting members

[12] *See* Securities Exchange Act Release Nos. 83362 (June 1, 2018), 83 FR 26514 (June 7, 2018) (SR–FICC–2018–001) and 83223 (May 11, 2018), 83 FR 23020 (May 17, 2018) (SR–FICC–2018–801).

[13] *Id.*

[14] *Supra* note 10.

[15] 15 U.S.C. 78q–1(b)(3)(F).

[16] *Id.*

[17] *Id.*

would not be exposed to losses they cannot anticipate or control. In this way, these proposed changes are designed to assure the safeguarding of securities and funds which are in the custody and control of FICC or for which it is responsible, consistent with Section 17A(b)(3)(F) of the Act.[18]

FICC believes that the (i) proposed changes to the floor parameter language as described in Item II(A)1(2) above and (ii) the proposed technical changes described in Item II(A)1(3) above would enhance the clarity of the GSD QRM Methodology Document for FICC. As the GSD QRM Methodology Document is used by FICC Risk Management personnel regarding the calculation of margin requirements, it is therefore important that FICC Risk Management has a clear description of the calculation of the margin methodology. Having a clear description of the calculation of the margin methodology would promote an accurate and smooth functioning of the margining process. Having an accurate and smooth functioning of the margining process would enable FICC to more accurately calculate the necessary margin from members and, as described above, assure the safeguarding of securities and funds which are in the custody or control of FICC or for which it is responsible, consistent with Section 17A(b)(3)(F) of the Act.[19]

Rule 17Ad–22(e)(4)(i) under the Act [20] requires a covered clearing agency to establish, implement, maintain and enforce written policies and procedures reasonably designed to effectively identify, measure, monitor, and manage its credit exposures to participants and those exposures arising from its payment, clearing, and settlement processes by maintaining sufficient financial resources to cover its credit exposure to each participant fully with a high degree of confidence. FICC believes that the proposed changes in Item II(A)1(1) above are consistent with the requirements of Rule 17Ad–22(e)(4)(i) under the Act.[21] As described above, FICC believes these proposed changes to revise the description of the stressed period used to calculate the VaR Charge would provide FICC with more flexibility with respect to the adjustment of the stressed period. FICC believes that having more flexibility with respect to the adjustment of the stressed period would allow FICC to respond to rapidly changing market conditions more quickly and timely. Having the ability to respond to rapidly changing market conditions more quickly and timely would in turn help FICC better measure, monitor, and manage its credit exposures to participants and those exposures arising from its payment, clearing, and settlement processes. Moreover, the added flexibility would allow FICC to collect more accurate margin amounts that would help offset the risks presented to FICC by the changing market conditions, thus help ensure that FICC maintains sufficient financial resources to cover its credit exposure to each participant fully with a high degree of confidence. Therefore, FICC believes that the proposed changes described in Item II(A)1(1) above are consistent with the requirements of Rule 17Ad–22(e)(4)(i) under the Act.[22]

Rule 17Ad–22(e)(6)(i) under the Act [23] requires a covered clearing agency to establish, implement, maintain and enforce written policies and procedures reasonably designed to cover, if the covered clearing agency provides central counterparty services, its credit exposures to its participants by establishing a risk-based margin system that, at a minimum, considers, and produces margin levels commensurate with, the risks and particular attributes of each relevant product, portfolio, and market. FICC believes that the proposed changes in Item II(A)1(1) above are consistent with the requirements of Rule 17Ad–22(e)(6)(i).[24] Specifically, FICC believes that the proposed changes to replace the current detailed description of the stressed period with a more general description, as described above, would provide FICC with more flexibility to respond to rapidly changing market conditions more quickly and timely because FICC would be able to make adjustments to the stressed period without a rule change. Having this flexibility would enable FICC to better risk manage its credit exposure to its members because FICC would then be able to make appropriate and timely adjustments to the stressed period, as described above. Being able to adjust the stressed period quickly and timely would allow FICC to continue to produce margin levels commensurate with the risks and particular attributes of each relevant product, portfolio, and market. Therefore, FICC believes this proposed change is consistent with Rule 17Ad–22(e)(6)(i) under the Act.[25]

Rule 17Ad–22(e)(6)(v) under the Act [26] requires a covered clearing agency to establish, implement, maintain and enforce written policies and procedures reasonably designed to cover, if the covered clearing agency provides central counterparty services, its credit exposures to its participants by establishing a risk-based margin system that, at a minimum, uses an appropriate method for measuring credit exposure that accounts for relevant product risk factors and portfolio effects across products. FICC believes that the proposed changes in Item II(A)1(1) above are consistent with the requirements of Rule 17Ad–22(e)(6)(v).[27] Specifically, FICC believes that the proposed changes to replace the current detailed description of the stressed period with a more general description, as described above, would provide FICC with more flexibility to respond to rapidly changing market conditions more quickly and timely because FICC would be able to make adjustments to the stressed period without a rule change. Having this flexibility would enable FICC to better risk manage its credit exposure to its members because FICC would then be able to make appropriate and timely adjustments to the stressed period, as described above. Being able to adjust the stressed period quickly and timely would allow FICC to continue to produce margin levels commensurate with relevant product risk factors and portfolio effects across products. Therefore, FICC believes this proposed change is consistent with Rule 17Ad–22(e)(6)(v) under the Act.[28]

(B) Clearing Agency's Statement on Burden on Competition

FICC believes proposed changes described in Item II(A)1(1) above may have an impact on competition because these changes could result in members being assessed a higher margin than they would have been assessed under the current description of the stressed period. When these proposed changes result in a higher VaR Charge, they could burden competition for members that have lower operating margins or higher costs of capital compared to other members. However, the increase in VaR Charge would be in direct relation to the specific risks presented by each member's portfolio, and each member's margin requirement would continue to be calculated with the same parameters and at the same confidence level for each member. Therefore, members that have a similar portfolio, regardless of the type of member, would have similar impacts on their margin

[18] *Id.*

[19] *Id.*

[20] 17 CFR 240.17Ad–22(e)(4)(i).

[21] *Id.*

[22] *Id.*

[23] 17 CFR 240.17Ad–22(e)(6)(i).

[24] *Id.*

[25] *Id.*

[26] 17 CFR 240.17Ad–22(e)(6)(v).

[27] *Id.*

[28] *Id.*

requirement amounts. As such, FICC believes any burden on competition imposed by the proposed changes described in Item II(A)1(1) would not be significant and, regardless of whether such burden on competition could be deemed significant, would be necessary and appropriate, as permitted by Section 17A(b)(3)(I) of the Act for the reasons described in this filing and further below.[29]

FICC believes any burden on competition imposed by the proposed changes described in Item II(A)1(1) would not be significant. As the result of the Impact Study indicates, if a stressed period of 1.5 years had been in place for GSD, the associated VaR Charge increase at GSD would be approximately $387 million (or 2.1%) on average.

However, even if the burden on competition imposed by the proposed changes described in Item II(A)1(1) were deemed significant, FICC believes that any such burden on competition would be necessary because, as described above, the proposed changes would provide FICC with more flexibility with respect to the adjustment of the stressed period and allow FICC to respond to rapidly changing market conditions more quickly and timely. Having more flexibility with respect to this calculation would thus help better ensure that FICC calculates and collects adequate margin from members and thereby assure the safeguarding of securities and funds which are in the custody and control of FICC or for which it is responsible, consistent with Section 17A(b)(3)(F) of the Act.[30]

In addition, FICC believes the proposed changes described in Item II(A)1(1) are necessary to support FICC's compliance with Rules 17Ad–22(e)(4)(i), (e)(6)(i), and (e)(6)(v) under the Act.[31] Specifically, as described above, FICC believes these proposed changes would provide FICC with more flexibility with respect to the adjustment of the stressed period. Having more flexibility with respect to these adjustments would allow FICC to respond to rapidly changing market conditions more quickly and timely. Having the ability to respond to rapidly changing market conditions more quickly and timely would in turn help FICC better measure, monitor, and manage its credit exposures to participants and those exposures arising from its payment, clearing, and settlement processes, consistent with the requirements of Rule 17ad–22(e)(4)(i) under the Act.[32]

FICC also believes these proposed changes would enable FICC to be better equipped to respond to rapidly changing market conditions. FICC believes having this flexibility would help lead to a better risk management practice because it would enable FICC to adjust the stressed period in response to fast changing market conditions. Being able to adjust the stressed period in response to fast changing market conditions would enable FICC to produce margin levels more commensurate with the risks it faces as a CCP and help FICC cover its credit exposures to its participants, consistent with the requirements of Rules 17Ad–22(e)(6)(i) and (e)(6)(v) under the Act.[33]

FICC also believes that any burden on competition that may be imposed by the proposed changes described in Item II(A)1(1) would be appropriate in furtherance of the Act because, as described above, these proposed changes have been specifically designed to assure the safeguarding of securities and funds which are in the custody and control of FICC or for which it is responsible, as required by Section 17A(b)(3)(F) of the Act.[34] As described above, the proposed changes to revise the description of the stressed period used to calculate the VaR Charge would also enable FICC to produce margin levels commensurate with the risks and particular attributes of each member's portfolio. Therefore, because the proposed changes are designed to provide FICC with an appropriate measure of the risks presented by members' portfolios, FICC believes these proposed changes are appropriately designed to meet its risk management goals and regulatory obligations.

FICC believes that the proposed changes described in Item II(A)1(1) above may also promote competition because these changes could also result in members being assessed a lower margin than they would have been assessed under the current description of the stressed period, and thereby could potentially lower operating costs for members.[35]

With respect to the proposed changes described in Items II(A)1(2) and II(A)1(3) above to make clarifying and technical changes to the GSD QRM Methodology Document, FICC does not believe these proposed changes would have any impact on competition because these proposed changes would only enhance the clarity of the GSD QRM Methodology Document, which would promote an accurate and smooth functioning of the margining process at FICC and would not affect the substantive rights and obligations of members.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

FICC has not received or solicited any written comments relating to this proposal. If any additional written comments are received, they will be publicly filed as an Exhibit 2 to this filing, as required by Form 19b–4 and the General Instructions thereto.

Persons submitting comments are cautioned that, according to Section IV (Solicitation of Comments) of the Exhibit 1A in the General Instructions to Form 19b–4, the Commission does not edit personal identifying information from comment submissions. Commenters should submit only information that they wish to make available publicly, including their name, email address, and any other identifying information.

All prospective commenters should follow the Commission's instructions on how to submit comments, *available at https://www.sec.gov/regulatory-actions/how-to-submit-comments.* General questions regarding the rule filing process or logistical questions regarding this filing should be directed to the Main Office of the SEC's Division of Trading and Markets at *tradingandmarkets@sec.gov* or 202–551–5777.

FICC reserves the right not to respond to any comments received.

III. Date of Effectiveness of the Proposed Rule Change, and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

[29] 15 U.S.C. 78q–1(b)(3)(I).

[30] 15 U.S.C. 78q–1(b)(3)(F).

[31] 17 CFR 240.17Ad–22(e)(4)(i), (e)(6)(i), and (e)(6)(v).

[32] 17 CFR 240.17Ad–22(e)(4)(i).

[33] 17 CFR 240.17Ad–22(e)(6)(i) and (e)(6)(v).

[34] 15 U.S.C. 78q–1(b)(3)(F).

[35] As the result of the Impact Study indicates, if FICC were to change the stressed period pursuant to the proposed changes described in Item II(A)1(1), some members would be assessed a lower margin than they would have been assessed under the current continuous one-year stressed period.

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–FICC–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.

All submissions should refer to File Number SR–FICC–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 FICC and on DTCC's website (*http://dtcc.com/legal/sec-rule-filings.aspx*). 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–FICC–2023–003 and should be submitted on or before March 28, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[36]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–04580 Filed 3–6–23; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–97012; File No. SR–C2–2023–006]

Self-Regulatory Organizations; Cboe C2 Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Adopt a New Data Product Called the Cboe One Options Feed

March 1, 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 February 27, 2023, Cboe C2 Exchange, Inc. (''Exchange'' or ''C2'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The 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 Options'') proposes to adopt a new data product called the Cboe One Options Feed.

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/options/regulation/rule_filings/ctwo/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to establish a new market data product called the Cboe One Options Feed.[3] As described more fully below, the Cboe One Options Feed is a data feed that that will offer top of book quotations and execution information based on options orders entered into the Exchange System and its affiliated options exchanges, Cboe Exchange, Inc. (''Cboe Options''), Cboe BZX Exchange, Inc. (''BZX Options'') and Cboe EDGX Exchange, Inc. (''EDGX Options'') (collectively, the ''Affiliates'' and collectively with the Exchange, the ''Cboe Options Exchanges'') and for which the Cboe Options Exchanges report quotes under the OPRA Plan.[4]

Currently, the Exchange offers C2 Options Top Data feed, which is an uncompressed data feed that offers top-of-book quotations and last sale information based on options orders entered into the Exchange's System. The C2 Options Top Data feed benefits investors by facilitating their prompt access to real-time top-of-book information contained in C2 Options Top Data. The Exchange notes that C2 Options Top Data is ideal for market participants requiring both quote and trade data. The Exchange's Affiliates also offer similar top-of-book data.[5] Particularly, each of the Exchange's Affiliates 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.

[36] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Exchange previously submitted the proposed rule change on January 30, 2023 (SR–C2–2023–005). *See* Securities Exchange Act Release No. 96886 (February 10, 2023), 88 FR 10159, (February 16, 2023) (SR–C2–2023–005). The Exchange is withdrawing SR–C2–2023–005 and submitting this filing to make clarifying, non-substantive changes to more clearly reflect the obligations under the OPRA Plan, which the Exchange believes will avoid potential confusion, as well as address the comments raised by another exchange group in a comment letter received on February 23, 2023. *See* Letter from Greg Ferrari, Vice President, U.S. Options, Nasdaq Stock Market LLC, Nasdaq PHLX LLC, Nasdaq BX, Inc., Nasdaq ISE, LLC, Nasdaq GEMX, LLC, and Nasdaq MRX, LLC markets (collectively ''Nasdaq''), to Vanessa Countryman, Secretary Commission, dated February 23, 2023.

[4] The Exchange understands that each of the Cboe Options Exchanges will separately file substantially similar proposed rule changes to implement Cboe One Options Feed and its related fees.

[5] *See* Cboe Data Services, LLC Fee Schedule, EDGX Rule 21.15, and BZX Rule 21.15.

Further, the quote and last sale data contained in the Exchange's Affiliates top feeds is identical to the data sent to OPRA for redistribution to the public.

The Exchange now proposes to adopt a market data product that will provide top-of-book quotation and last sale information based on the quotation and trading activity on the Exchange and each of its Affiliates, which the Exchange believes will offer a comprehensive and highly representative view of US options pricing to market participants. More specifically, the proposed Cboe One Options Feed will contain the aggregate best bid and offer (''BBO'') of all displayed orders for options traded on the Exchange and its Affiliates, as well as individual last sale information and volume, which includes the price, time of execution and individual Cboe options exchange on which the trade was executed. The Cboe One Options Feed will also consist of Symbol Summary,[6] Market Status,[7] Trading Status,[8] and Trade Break [9] messages for the Exchange and each of its Affiliates.

The Exchange notes its affiliated equities exchanges Cboe BYX Exchange, Inc. (''BYX''), Cboe BZX Exchange, Inc. (''BZX Equities''), Cboe EDGA Exchange, Inc. (''EDGA'') and Cboe EDGX Exchange, Inc. (''EDGX Equities'') already offer a similar data product, the Cboe One Summary Feed, which contains the aggregate best bid and offer of all displayed orders for securities traded on each of the Exchange's affiliated equities exchanges as well as last sale information for each of the Exchange's affiliated equities exchanges.[10] The Cboe One Summary Feed also consists of Symbol Summary, Market Status, Trading Status, and Trade Break messages for each of its affiliated equities exchanges.

Particularly, the Cboe One Options Feed will offer market participants with a new option for receiving Cboe market data that provides a consolidated view of activity on all Cboe options exchanges. The Exchange proposes to offer the Cboe One Options Feed voluntarily in response to demand from market participants (*e.g.,* retail brokerage firms) that are interested in receiving the aggregate top of book quotation and last sale information from the Cboe Options Exchanges as part of a single data feed. Specifically, Cboe One Options Feed can be used by industry professionals and retail investors looking for a cost effective, easy-to-administer, high quality market data product with the characteristics of the Cboe One Options Feed. For example, today an entity can subscribe to various market data products offered by single exchanges and distribute or resell that data, either separately or in the aggregate, to their customers as part of their own market data offerings.[11] Distributors and vendors may incur administrative costs when consolidating and augmenting the data to meet their customer's need. Consequently, distributors and/or vendors may simply choose to not take the data from each of the Cboe Options Exchanges because of the effort and cost required to aggregate data from separate feeds into their existing products. The Exchange believes those same distributors and/or vendors may be interested in distributing the Cboe One Options Feed so that they may easily incorporate aggregated or summarized Cboe Options Exchange data into their own products without themselves incurring the costs of the repackaging and aggregating the data it would receive by subscribing to each market data product offered by the individual Cboe Options Exchanges. The Exchange therefore believes that the Cboe One Options Feed would provide high-quality, comprehensive last sale and top-of-book data for the Cboe Options Exchanges in a unified view and respond to demand for such a product.

The Exchange also notes that it has taken into consideration its affiliated relationship with its Affiliates in its design of Cboe One Options Feed to assure distributors and/or vendors would be able to resell and offer a similar product on the same terms as the Exchange, both from a perspective of latency and cost.

With respect to latency, the path for distribution by the Exchange of Cboe One Options Feed would not be faster than the path for distribution by a vendor that independently created a Cboe One Options Feed-like product could distribute its own product. As such, the proposed Cboe One Options data feed is a data product that a vendor could create and sell without being in a disadvantaged position relative to the Exchange. In recognition that the Exchange is the source of its own market data and is affiliated with Cboe Options, BZX Options and EDGX Options, the Exchange represents that the source of the market data it would use to create the proposed Cboe One Options Feed is available to vendors. Specifically, the Exchange would use the following data feeds to create the proposed Cboe One Options Feed, each of which is available to other vendors: the EDGX Options Top, Cboe Options Top Data, the C2 Options Top Data, and the BZX Options Top Feeds. The Cboe Options Exchanges will continue to make available these individual underlying feeds, and thus, the source of the market data it would use to create the proposed Cboe One Options feed is the same as the source available to other vendors.

In order to create the Cboe One Options Feed, the Exchange will receive the individual data feeds from each Cboe Options Exchange and, in turn, aggregate and summarize that data to create the Cboe One Options Feed. This is the same process any entity would undergo should it create a market data product similar to the Cboe One Options Feed to distribute to its customers. In addition, the servers of most vendors could be located in the same facilities as the Exchange, and, therefore, should receive the individual data feed from each Cboe Options Exchange at the same time the Exchange would for it to

[6] The Symbol Summary message will include the total executed volume across all Cboe Options Exchanges.

[7] The Market Status message is disseminated to reflect a change in the status of one of the Cboe Options Exchanges. For example, the Market Status message will indicate whether one of the Cboe Options Exchanges is experiencing a systems issue or disruption and quotation or trade information from that market is not currently being disseminated via the Cboe One Options Feed as part of the aggregated BBO. The Market Status message will also indicate when a Cboe Options Exchange is no longer experiencing a systems issue or disruption to properly reflect the status of the aggregated BBO.

[8] The Trade Break message will indicate when an execution on a Cboe Options Exchange is broken in accordance with the individual Cboe Options Exchange's rules (*e.g.,* Cboe Options Rule 6.5, C2 Option Rule 6.5, BZX Options Rule 20.6, EDGX Options Rule 20.6).

[9] The Trading Status message will indicate the current trading status of an option contract on each individual Cboe Options Exchange. A Trading Status message will also be sent whenever a security's trading status changes. For example, a Trading Status message will be sent when a symbol is open for trading or when a symbol is subject to a trading halt or when it resumes trading.

[10] *See* BZX Rule 11.22(j), BYX Rule 11.22(i), EDGA Rule 13.8(b) and EDGX Rule 13.8(b).

[11] For purposes of this filing, a ''vendor'', which is a type of distributor, will refer to any entity that receives an exchange market data product directly from the exchange or indirectly from another entity (for example, from an extranet) and then resells that data to a third-party customer (*e.g.,* a data provider that resells exchange market data to a retail brokerage firm). The term ''distributor'' herein, will refer to any entity that receives an exchange market data product, directly from the exchange or indirectly from another entity (*e.g.,* from a data vendor) and then distributes to individual internal or external end-users (*e.g.,* a retail brokerage firm who distributes exchange data to its individual employees and/or customers). An example of a vendor's ''third-party customer'' or ''customer'' is an institutional broker dealer or a retail broker dealer, who then may in turn distribute the data to their customers who are individual internal or external end-users.

create the Cboe One Options Feed.[12] Therefore, a vendor that is located in the same facilities as the Exchange could obtain the underlying data feeds from the Cboe Options Exchanges on the same latency basis as the system that would be performing the aggregation and consolidation of the proposed Cboe One Options Feed and provide the same type of product to its customers with the same latency they could achieve by purchasing the Cboe One Options Feed from the Exchange. As such, the Exchange would not have any unfair advantage over vendors with respect to obtaining data from the individual Cboe Options Exchanges. In fact, the technology supporting the Cboe One Options Feed would similarly need to obtain the Exchange's data feed as well and even this connection would be on a level playing field with a vendor located at the same facility as the Exchange. The Exchange has designed the Cboe One Options data feed so that it would not have a competitive advantage over a vendor with respect to the speed of access to those underlying data feeds. Likewise, the Cboe One Options data feed would not have a speed advantage vis-à-vis vendors located in the same data center as the Exchange with respect to access to its customers, whether those customers are also located in the same data center or not.

With regard to cost, the Exchange will file a separate rule filing with the Commission to establish fees for Cboe One Options Feed, which would be designed to ensure that vendors could compete with the Exchange by creating a similar product as the Cboe One Options Feed. The pricing the Exchange would charge for the Cboe One Options Feed would not be lower than the cost to a vendor (or distributor) to obtain the underlying Cboe Options Exchanges' top-of-book data feeds. The pricing the Exchange would charge for the Cboe One Options Feed compared to the cost of the individual data feeds from the Cboe Options Exchanges would enable a vendor to receive the underlying data feeds and offer a similar product on a competitive basis and with no greater latency than the Exchange. The Distribution and User (Professional and Non-Professional) fees that the Exchange intends to propose for the Cboe One Options Feed would be equal to the combined fees for subscribing to each individual data feed. Additionally, the Exchange also intends to propose a separate ''Data Consolidation Fee'', which would reflect the value of the aggregation and consolidation function the Exchange performs in creating the Cboe One Options Feed. The intended proposed pricing would therefore enable a vendor to create a competing product based on the individual data feeds and charge its customer a fee that it believes reflects the value of the aggregation and consolidation function that is competitive with Cboe One Options Feed pricing. For these reasons, the Exchange believes that vendors could readily offer a product similar to the Cboe One Options Feed on a competitive basis at a similar cost.

Implementation

The Exchange will announce when it intends to make available the Cboe One Options feed, subject to the effectiveness of the proposed rule change and the effectiveness of a rule filing to establish the fees (via a separate rule filing).[13]

2. Statutory Basis

The Exchange believes that the proposed Cboe One Options Feed is consistent with Section 6(b) of the Act,[14] in general, and furthers the objectives of Section 6(b)(5) of the Act,[15] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and to protect investors and the public interest, and that it is not designed to permit unfair discrimination among customers, brokers, or dealers. The Exchange also believes this proposal is consistent with Section 6(b)(5) of the Act because it protects investors and the public interest and promotes just and equitable principles of trade by providing investors with new options for receiving market data as requested by market participants and Section 6(b)(8) of the Act, which requires that the rules of an exchange not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.[16]

The Exchange also believes that the proposed rule change is consistent with Section 11(A) of the Act[17] in that it supports (i) fair competition among brokers and dealers, among exchange markets, and between exchange markets and markets other than exchange markets and (ii) the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities.

In adopting Regulation NMS, the Commission granted self-regulatory organizations and broker-dealers increased authority and flexibility to offer new and unique market data to consumers of such data. It was believed that this authority would expand the amount of data available to users and consumers of such data and also spur innovation and competition for the provision of market data. The Exchange believes that the proposed Cboe One Options Feed would further broaden the availability of U.S. option market data to investors consistent with the principles of Regulation NMS. Particularly, the Exchange believes the proposed Cboe One Options Feed promotes transparency by disseminating the Cboe Options Exchanges' market data more widely through additional distribution channels, which will enable investors to better monitor trading activity on the Cboe Options Exchanges, and thereby serve the public interest. The Exchange is providing additional distribution channels because it believes market participants may be more inclined to purchase a combined data feed and redistribute it. Particularly, the Exchange believes that market participants would welcome a market data product that would provide high-quality, comprehensive top-of-book and last sale data for the Cboe Options Exchanges in a unified view (*i.e.,* the Cboe One Options Feed).

The Exchange also 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.[18] 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. While there is not currently an aggregated top-of-book data product offered at competitor options

[12] The Exchange notes that it does not own the facilities in which its servers are located but is aware that there are vendors that currently locate their servers in the same facilities as the Exchange and on an equal basis as the Exchange. The Exchange is not aware of any reasons why vendors would not be able to locate their servers on an equal basis as the Exchange on an on-going basis.

[13] The Exchange also represents that should it wish to modify the proposed Cboe One Options Feed data product in the future, it will submit a proposed rule change as required under the Act.

[14] 15 U.S.C. 78f.

[15] 15 U.S.C. 78f(b)(5).

[16] 15 U.S.C. 78f(b)(8).

[17] 15 U.S.C. 78k–1.

[18] *See* Cboe Global Markets U.S. Options Market Month-to-Date Volume Summary (January 9, 2023), available at *https://markets.cboe.com/us/options/market_statistics/.*

exchanges, the quote and last sale data contained in the proposed Cboe One Options Feed is identical to data already provided in the Exchange's and its Affiliate's individual top-of-book data products as well as to the data sent to OPRA for redistribution to the public.[19] Accordingly, Exchange top-of-book data is therefore widely available today from a number of different sources.

Moreover, exchange top-of-book data is distributed and purchased on a voluntary basis, in that neither the Exchange nor market data distributors or vendors are required by any rule or regulation to make this data available. Accordingly, distributors and vendors can discontinue use at any time and for any reason, including due to an assessment of the reasonableness of fees charged. Further, the Exchange is not required to make any proprietary data products available or to offer any specific pricing alternatives to any customers. Moreover, persons (including broker-dealers) who subscribe to any exchange proprietary data feed must also have equivalent access to consolidated Options Information [20] from OPRA for the same classes or series of options that are included in the proprietary data feed, and proprietary data feeds cannot be used to meet that particular requirement.[21] As such, all proprietary data feeds are optional.

Similar to exchanges' individual top-of-book data feeds, the proposed Cboe One Options Feed would be distributed and purchased on a voluntary basis, in that neither the Exchange, its Affiliates, nor market data distributors or vendors are required by any rule or regulation to make this data feed available. Accordingly, distributors and vendors can discontinue use at any time and for any reason, including due to an assessment of the reasonableness of fees charged. The Exchange believes that the proposed Cboe One Options Feed will offer an alternative to subscribing to the Cboe Options Exchanges four individual top-of-book data feeds. Also, as noted above, there is a history of offering similar consolidated data products in the equities industry. Indeed, the Exchange's affiliated equities exchanges offer the Cboe One Summary Feed, which is a substantially similar data product which contains the aggregate BBO of all displayed orders for securities (instead of options) traded on the Cboe's equities exchanges, along with last sale information.[22] The Cboe One Summary Feed also consists of Symbol Summary, Market Status, Trading Status, and Trade Break messages.[23]

The Exchange believes the proposal would not permit unfair discrimination because the product will be available to all market data distributors and vendors on an equivalent basis. Any distributor or vendor that wishes to instead purchase one or more of the individual data feeds offered by the Cboe Options Exchanges separately will still be able to do so. Further, the Exchange and its Affiliates will continue to make the data contained in the proposed Cboe One Options Feed available no earlier than the time at which the exchanges send that data to OPRA.

In addition, the Exchange does not believe that the proposal would permit unfair discrimination among customers, brokers, or dealers and thus is consistent with the Act because the Exchange will be offering the product on terms that a vendor could offer a competing product. Specifically, the proposed data feed merely represents an aggregation and consolidation of data contained in existing, previously filed individual market data products of the Cboe Options Exchanges. As such, a vendor could similarly obtain the underlying data feeds and perform a similar aggregation and consolidation function to create the same data product as being proposed with the same latency and cost as the Exchange.

The Exchange has taken into consideration its affiliated relationship with Cboe Options, BZX Options and EDGX Options in its design of the Cboe One Options Feed to assure that distributors and/or vendors would be able to offer a similar product on the same terms as the Exchange, both from the perspective of latency and cost. As discussed above, the Exchange proposes to offer the Cboe One Options Feed voluntarily in response to demand from market participants such as retail brokerage firms that are interested in receiving and distributing the top-of-book quotation and last sale information from the Cboe Options Exchanges as part of a single data feed. Specifically, Cboe One Options Feed can be used by industry professionals and retail investors looking for a cost effective, easy-to-administer, high quality market data product with the characteristics of the Cboe One Options Feed. The Cboe One Options Feed would help protect a free and open market by providing market participants additional choices in receiving this type of market data, thus promoting competition and innovation.

With respect to latency, the path for distribution by the Exchange of Cboe One Options Feed would not be faster than the path for distribution a vendor that independently created a Cboe One Options Feed-like product could distribute its own product. As such, the proposed Cboe One Options data feed is a data product that a vendor could create and sell without being in a disadvantaged position relative to the Exchange. In recognition that the Exchange is the source of its own market data and is affiliated with Cboe Options, BZX Options and EDGX Options, the Exchange represents that the source of the market data it would use to create the proposed Cboe One Options Feed is available to other vendors. Specifically, the Exchange would use the following data feeds to create the proposed Cboe One Options Feed, each of which is available to other vendors: the EDGX Options Top, Cboe Options Top Data, the C2 Options Top Data, and the BZX Options Top Feeds. The Cboe Options Exchanges will continue to make available these individual underlying feeds, and thus, the source of the market data it would use to create the proposed Cboe One Options feed is the same as the source available to other vendors.

In order to create the Cboe One Options Feed, the Exchange will receive the individual data feeds from each Cboe Options Exchange and, in turn, aggregate and summarize that data to create the Cboe One Options Feed. This is the same process any vendor would undergo should it create a market data product similar to the Cboe One Options Feed to distribute to its customers. In addition, the servers of most vendors could be located in the same facilities as the Exchange, and, therefore, should receive the individual data feed from each Cboe Options Exchange at the same time the Exchange would for it to

[19] The Exchange notes that it and its Affiliates, make available their respective top-of-book data and last sale data that is included in each exchange's top-of-book data feed no earlier than the time at which the Exchange sends that data to OPRA.

[20] ''Consolidated Options Information'' means consolidated Last Sale Reports combined with either consolidated Quotation Information or the BBO furnished by OPRA. Access to consolidated Options Information is deemed ''equivalent'' if both kinds of information are equally accessible on the same terminal or work station. *See* Limited Liability Company Agreement of Options Price Reporting Authority, LLC (''OPRA Plan''), Section 5.2(c)(iii). The Exchange notes that this requirement under the OPRA Plan is also reiterated under the Cboe Global Markets Global Data Agreement and Cboe Global Markets North American Data Policies, which subscribers to any exchange proprietary product must sign and are subject to, respectively. Additionally, the Exchange's Data Order Form (used for requesting the Exchange's market data products) requires confirmation that the requesting market participant receives data from OPRA.

[21] *Id.*

[22] *See* BZX Rule 11.22(j), BYX Rule 11.22(i), EDGA Rule 13.8(b) and EDGX Rule 13.8(b).

[23] *Id.*

create the Cboe One Options Feed. Therefore, a vendor that is located in the same facilities as the Exchange could obtain the underlying data feeds from the Cboe Options Exchanges on the same latency basis as the system that would be performing the aggregation and consolidation of the proposed Cboe One Options Feed and provide the same type of product to its customers with the same latency they could achieve by purchasing the Cboe One Options Feed from the Exchange. As such, the Exchange would not have any unfair advantage over vendors with respect to obtaining data from the individual Cboe Options Exchanges. In fact, the technology supporting the Cboe One Options Feed would similarly need to obtain the Exchange's data feed as well and even this connection would be on a level playing field with a vendor located at the same facility as the Exchange. The Exchange has designed the Cboe One Options data feed so that it would not have a competitive advantage over a vendor with respect to the speed of access to those underlying data feeds. Likewise, the Cboe One Options data feed would not have a speed advantage vis-à-vis vendors located in the same data center as the Exchange with respect to access to customers, whether those customers are also located in the same data center or not.

With regard to cost, the Exchange will file a separate rule filing with the Commission to establish fees for Cboe One Options Feed, which would be designed to ensure that vendors could compete with the Exchange by creating a similar product as the Cboe One Options Feed to offer and resell. The pricing the Exchange would charge for the Cboe One Options Feed would not be lower than the cost to a vendor (or distributor) to obtain the underlying Cboe Options Exchanges' top-of-book data feeds. The pricing the Exchange would charge clients for the Cboe One Options Feed compared to the cost of the individual data feeds from the Cboe Options Exchanges would enable a vendor to receive the underlying data feeds and offer a similar product on a competitive basis and with no greater latency than the Exchange. The Distribution and User (Professional and Non-Professional) fees that the Exchange intends to propose for the Cboe One Options Feed would be equal to the combined fees for subscribing to each individual data feed.[24] The Exchange also intends to propose a separate ''Data Consolidation Fee'', which would reflect the value of the aggregation and consolidation function the Exchange performs in creating the Cboe One Options Feed. The intended proposed fees would therefore enable a vendor to create a product based on the individual data feeds and charge its clients a fee that it believes reflects the value of the aggregation and consolidation function that is competitive with Cboe One Options Feed pricing. For these reasons, the Exchange believes that vendors could readily offer a product similar to the Cboe One Options Feed on a competitive basis at a similar cost.

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. Because the Exchange and its affiliates, along with other exchanges already offer the similar underlying data products, the Exchange's proposed Cboe One Options Feed will enhance competition. This proposed new data feed provides investors with new options for receiving market data, which was a primary goal of the market data amendments adopted by Regulation NMS.[25] As the Cboe Options Exchanges are consistently one of the top exchange operators by market share for U.S. options trading the data included within the Cboe One Options Feed will provide investors a new option for obtaining a broad market view, consistent with the primary goal of the market data amendments adopted by Regulation NMS.

The Exchange believes the Cboe One Options Feed will further enhance competition by providing distributors and vendors with a data feed that allows them to more quickly and efficiently integrate into their existing products. For example, today, vendors may subscribe to various market data products offered by single exchanges and resell that data, either separately or in the aggregate, to their customers as part of their own market data offerings. Distributors and vendors may incur administrative costs when consolidating and augmenting the data to meet their customer's need. Consequently, many distributors and/or vendors will simply choose to not take the data from each of the Cboe Options Exchanges because of the effort and cost required to aggregate data from separate feeds into their existing products. Those same distributors and/or vendors may therefore be interested in the Cboe One Options Feed as they may easily incorporate aggregated or summarized Cboe Options Exchanges' data into their own products without themselves incurring the costs of the repackaging and aggregating the data it would receive by purchasing each market data product offered by the individual Cboe Options Exchanges separately. The Exchange therefore believes that by providing market data that encompasses combined data from affiliated exchanges, the Exchange enables vendors with the ability to compete in the provision of similar content with other vendors, where they may not have done so previously if they were required to purchase the top-of-book feeds from each individual Cboe options exchanges separately.

Although the Exchange considers the acceptance of the Cboe One Options Feed by distributors and vendors as important to the success of the product, depending on their needs, such distributors and vendors may choose not to subscribe to the Cboe One Options Feed and may rather receive the Cboe Options Exchanges' individual market data products and incorporate them into their specific market data products. The Cboe One Options Feed simply provides another option for distributors and vendors to choose from when selecting a product that meets their market data needs.

Exchange Not the Exclusive Distributor of Cboe One Options Feed

Although the Cboe Options Exchanges are the exclusive distributors of the individual data feeds from which certain data elements would be taken to create the Cboe One Options Feed, the Exchange would not be the exclusive distributor of the aggregated and consolidated information that would compose the proposed Cboe One Options Feed. As discussed above,

[24] For example, the combined external distribution fee for the individual data feeds of the Cboe Options Exchanges is $10,000 per month (*i.e.,* the monthly external distribution fee is $5,000 per month for the Cboe Options Top, $2,500 per month for C2 Options Top $2,000 per month for BZX Options Top, and $500 for EDGX Options Top). The combined monthly Professional User fee for the individual data feeds of the Cboe Options Exchanges is $30.50 per Professional User (*i.e.,* the monthly Professional User fee is $15.50 per Professional User for the Cboe Options Top, $5 per Professional User for C2 Options Top; $5 per Professional User for BZX Options Top, and $5 per Professional User for EDGX Options Top). The combined monthly Non-Professional User fee for the individual data feeds of the Cboe Options Exchanges is $0.60 per Non-Professional User (*i.e.,* the monthly Non-Professional User fee is $0.30 per Non-Professional User for Cboe Options Top, $0.10 per Non-Professional User for C2 Options Top, $0.10 per Non-Professional User for BZX Options Top, and $0.10 per Non-Professional User for EDGX Options Top).

[25] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, at 37503 (June 29, 2005) (Regulation NMS Adopting Release).

distributors and/or vendors would be able, if they chose, to create a data feed with the same information as the Cboe One Options Feed and distribute it to their clients on a level-playing field with respect to latency and cost as compared to the Exchange's proposed Cboe One Options Feed. The pricing the Exchange would charge for the Cboe One Options Feed would not be lower than the cost to a distributor or vendor to obtain the underlying data feeds. In addition, the pricing the Exchange would charge clients for the Cboe One Options Feed compared to the cost of the individual data feeds from the Cboe Options Exchanges would enable a distributor and/or vendor to receive the underlying data feeds and offer a similar product on a competitive basis and with no greater latency than the Exchange.

Latency

The Cboe One Options Feed is also not intended to compete with similar products offered by distributors. Rather, it is intended to assist them in incorporating aggregated and summarized data from the Cboe Options Exchanges into their own market data products that are provided to their customers. Therefore, distributors will receive the data, who will, in turn, make available Cboe One Options Feed to their end users, either separately or as incorporated into the various market data products they provide. As stated above distributors may prefer a product like the Cboe One Options Feed so that they may easily incorporate aggregated or summarized Cboe Options Exchange data into their own products without themselves incurring the administrative costs of repackaging and aggregating the data it would receive by subscribing to each market data product offered by the individual Cboe Options Exchanges.

Notwithstanding the above, the Exchange believes that vendors may create a product similar to Cboe One Options Feed based on the market data products offered by the individual Cboe Options Exchanges with no greater latency than the Exchange. As discussed above, in order to create the Cboe One Options Feed, the Exchange will receive the individual data feeds from each Cboe Options Exchange and, in turn, aggregate and summarize that data to create the Cboe One Options Feed. This is the same process a vendor would undergo should it create a market data product similar to the Cboe One Options Feed to distribute to its customers. In addition, the servers of most vendors could be located in the same facilities as the Exchange, and, therefore, should receive the individual data feed from each Cboe Options Exchange at the same time the Exchange would for it to create the Cboe One Options Feed.

The Exchange has designed the Cboe One Options data feed so that it would not have a competitive advantage over a vendor with respect to the speed of access to those underlying data feeds. Likewise, the Cboe One Options data feed would not have a speed advantage vis-à-vis vendors located in the same data center as the Exchange with respect to access to their customers, whether those end users are also located in the same data center or not. Therefore, the Exchange believes that it will not incur any potential latency advantage that will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Cost

With regard to cost, the Exchange will file a separate rule filing with the Commission to establish fees for Cboe One Options Feed that would be designed to ensure that vendors could compete with the Exchange by creating a similar product as the Cboe One Options Feed. The pricing the Exchange would charge clients for the Cboe One Options Feed compared to the cost of the individual data feeds from the Cboe Options Exchanges would enable a vendor to receive the underlying data feeds and offer a similar product on a competitive basis and with no greater latency than the Exchange. The Distribution and User (Professional and Non-Professional) fees that the Exchange proposes for the Cboe One Options Feed will be equal to the combined fees for subscribing to each individual data feed. Moreover, as discussed, the Exchange intends to propose a separate ''Data Consolidation Fee'', which would reflect the value of the aggregation and consolidation function the Exchange performs in creating the Cboe One Options Feed. Therefore, vendors would be enabled to create a competing product based on the individual data feeds and charge their clients a fee that they believes reflects the value of the aggregation and consolidation function that is competitive with Cboe One Options Feed pricing. For these reasons, the Exchange believes that vendors could readily offer a product similar to the Cboe One Options Feed on a competitive basis at a similar cost.

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 Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act [26] and Rule 19b–4(f)(6) [27] thereunder. Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [28] and Rule 19b–4(f)(6) [29] thereunder.

A proposed rule change filed under Rule 19b–4(f)(6) [30] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[31] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the Exchange can launch the proposed Cboe One Options Feed on March 1, 2023, which is the date the original filing (SR–C2–2023–005) would have been operative. The Commission notes that Nasdaq in its comment letter believed that ''the Cboe One Feed Proposal should clearly explain the obligations of the OPRA Plan by specifically noting that any person who subscribes to the Cboe One Feed must have equivalent access to OPRA and remove the misleading language identified'' by Nasdaq.[32] Nasdaq further requested that marketing

[26] 15 U.S.C. 78s(b)(3)(A).

[27] 17 CFR 240.19b–4(f)(6).

[28] 15 U.S.C. 78s(b)(3)(A).

[29] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[30] 17 CFR 240.19b–4(f)(6).

[31] 17 CFR 240.19b–4(f)(6)(iii).

[32] *See* Letter from Greg Ferrari, Vice President, U.S. Options, Nasdaq, supra note 3, at 2. Nasdaq submitted a comment letter to CBOE–2023–009, which was the companion filing to C2–2023–005, adopting the Cboe One Options Feed.

materials for the Cboe One Options Feed clearly indicate this requirement to ensure compliance with the OPRA Plan.[33] The Commission believes that the Exchange has addressed the concerns raised by Nasdaq by removing the language Nasdaq found misleading and clarifying the obligations under the OPRA Plan. Specifically, the Exchange has represented that any person, including broker-dealers, who subscribe to the Cboe One Options Feed must also have equivalent access to consolidated Options Information from OPRA for the same classes or series of options that are included in the proprietary data feed, and proprietary data feeds cannot be used to meet that particular requirement.[34] The Commission notes that no other substantive changes from the Exchange's original filing are being made with this filing. Therefore, the Commission believes that waving the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission designates the proposed rule change to be operative on March 1, 2023.[35]

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–C2–2023–006 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–C2–2023–006. 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–C2–2023–006 and should be submitted on or before March 28, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[36]

Sherry R. Haywood,

Assistant Secretary.

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BILLING CODE 8011–01–P

[33] *Id.* at 2–3.

[34] *See supra* notes 20–21 and accompanying text. As discussed above, the Exchange has also represented that the requirement under the OPRA Plan is included in the Cboe Global Markets Global Data Agreement and Cboe Global Markets North American Data Policies, which subscribers to any exchange proprietary product must sign and are subject to, respectively. Additionally, the Exchange has represented that its Data Order Form (used for requesting the Exchange's market data products) requires confirmation that the requesting market participant receives data from OPRA. *See supra* note 20.

[35] For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[36] 17 CFR 200.30–3(a)(12), (59).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–97013; File No. SR–CboeBZX–2023–014]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Adopt a New Data Product Called the Cboe One Options Feed

March 1, 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 February 27, 2023, Cboe BZX Exchange, Inc. (''Exchange'' or ''BZX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The 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 adopt a new data product called the Cboe One Options Feed. 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.

[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 establish a new market data product called the Cboe One Options Feed.[3] The Exchange also proposes to amend Exchange Rule 21.15(b) to add a description of the Cboe One Options Feed under new subparagraph (6). As described more fully below, the Cboe One Options Feed is a data feed that that will offer top of book quotations and execution information based on options orders entered into the Exchange System and its affiliated options exchanges Cboe Exchange, Inc. (''Cboe Options''), Cboe C2 Exchange, Inc. (''C2 Options''), and Cboe EDGX Exchange, Inc. (''EDGX Options'') (collectively, the ''Affiliates'' and collectively with the Exchange, the ''Cboe Options Exchanges'') and for which the Cboe Options Exchanges report quotes under the OPRA Plan.[4]

Currently, the Exchange offers BZX Options Top feed, which is an uncompressed data feed that offers top-of-book quotations and last sale information based on options orders entered into the Exchange's System. The BZX Options Top feed benefits investors by facilitating their prompt access to real-time top-of-book information contained in BZX Options Top. The Exchange notes that BZX Options Top is ideal for market participants requiring both quote and trade data. The Exchange's Affiliates also offer similar top-of-book data.[5] Particularly, each of the Exchange's Affiliates 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 Exchange's Affiliates top feeds is identical to the data sent to OPRA for redistribution to the public.

The Exchange now proposes to adopt a market data product that will provide top-of-book quotation and last sale information based on the quotation and trading activity on the Exchange and each of its Affiliates, which the Exchange believes will offer a comprehensive and highly representative view of US options pricing to market participants. More specifically, the proposed Cboe One Options Feed will contain the aggregate best bid and offer (''BBO'') of all displayed orders for options traded on the Exchange and its Affiliates, as well as individual last sale information and volume, for options traded on the Exchange, which includes the price, time of execution and individual Cboe options exchange on which the trade was executed. The Cboe One Options Feed will also consist of Symbol Summary,[6] Market Status,[7] Trading Status,[8] and Trade Break[9] messages for the Exchange and each of its Affiliates.

The Exchange notes that the Exchange and its affiliated equities exchanges Cboe BYX Exchange, Inc. (''BYX''), Cboe EDGA Exchange, Inc. (''EDGA'') and Cboe EDGX Exchange, Inc. (''EDGX Equities'') already offer a similar data product, the Cboe One Summary Feed, which contains the aggregate best bid and offer of all displayed orders for securities traded on the Exchange and each of the Exchange's affiliated equities exchanges as well as last sale information for each of the Exchange and the Exchange's affiliated equities exchanges.[10] The Cboe One Summary Feed also consists of Symbol Summary, Market Status, Trading Status, and Trade Break messages for the Exchange and each of its affiliated equities exchanges.

Particularly, the Cboe One Options Feed will offer market participants with a new option for receiving Cboe market data that provides a consolidated view of activity on all Cboe options exchanges. The Exchange proposes to offer the Cboe One Options Feed voluntarily in response to demand from market participants (*e.g.,* retail brokerage firms) that are interested in receiving the aggregate top of book quotation and last sale information from the Cboe Options Exchanges as part of a single data feed. Specifically, Cboe One Options Feed can be used by industry professionals and retail investors looking for a cost effective, easy-to-administer, high quality market data product with the characteristics of the Cboe One Options Feed. For example, today an entity can subscribe to various market data products offered by single exchanges and distribute or resell that data, either separately or in the aggregate, to their customers as part of their own market data offerings.[11] Distributors and vendors may incur administrative costs when consolidating and augmenting the data to meet their customer's need. Consequently, distributors and/or vendors may simply choose to not take the data from each of the Cboe Options Exchanges because of the effort and cost required to aggregate data from separate feeds into their existing products. The Exchange believes those same distributors and/or vendors may be interested in distributing the Cboe One Options Feed so that they may easily incorporate aggregated or summarized Cboe Options Exchange data into their own products

[3] The Exchange previously submitted the proposed rule change on January 30, 2023 (SR–CboeBZX–2023–004). *See* Securities Exchange Act Release No. 96890 (February 13, 2023), 88 FR 10406, (February 17, 2023) (SR–CboeBZX–2023–004). The Exchange is withdrawing SR–CboeBZX–2023–004 and submitting this filing to make clarifying, non-substantive changes to more clearly reflect the obligations under the OPRA Plan, which the Exchange believes will avoid potential confusion, as well as address the comments raised by another exchange group in a comment letter received on February 23, 2023. *See* Letter from Greg Ferrari, Vice President, U.S. Options, Nasdaq Stock Market LLC, Nasdaq PHLX LLC, Nasdaq BX, Inc., Nasdaq ISE, LLC, Nasdaq GEMX, LLC, and Nasdaq MRX, LLC markets (collectively ''Nasdaq''), to Vanessa Countryman, Secretary Commission, dated February 23, 2023.

[4] The Exchange understands that each of the Cboe Options Exchanges will separately file substantially similar proposed rule changes to implement Cboe One Options Feed and its related fees.

[5] *See* Cboe Data Services, LLC Fee Schedule, C2 Options Exchange Fees Schedule, Cboe Data Services, LLC Fees, and EDGX Rule 21.15.

[6] The Symbol Summary message will include the total executed volume across all Cboe Options Exchanges.

[7] The Market Status message is disseminated to reflect a change in the status of one of the Cboe Options Exchanges. For example, the Market Status message will indicate whether one of the Cboe Options Exchanges is experiencing a systems issue or disruption and quotation or trade information from that market is not currently being disseminated via the Cboe One Options Feed as part of the aggregated BBO. The Market Status message will also indicate when a Cboe Options Exchange is no longer experiencing a systems issue or disruption to properly reflect the status of the aggregated BBO.

[8] The Trade Break message will indicate when an execution on a Cboe Options Exchange is broken in accordance with the individual Cboe Options Exchange's rules (*e.g.,* Cboe Options Rule 6.5, C2 Option Rule 6.5, BZX Options Rule 20.6, EDGX Options Rule 20.6).

[9] The Trading Status message will indicate the current trading status of an option contract on each individual Cboe Options Exchange. A Trading Status message will also be sent whenever a security's trading status changes. For example, a Trading Status message will be sent when a symbol is open for trading or when a symbol is subject to a trading halt or when it resumes trading.

[10] *See* BZX Rule 11.22(j), BYX Rule 11.22(i), EDGA Rule 13.8(b) and EDGX Rule 13.8(b).

[11] For purposes of this filing, a ''vendor'', which is a type of distributor, will refer to any entity that receives an exchange market data product directly from the exchange or indirectly from another entity (for example, from an extranet) and then resells that data to a third-party customer (*e.g.,* a data provider that resells exchange market data to a retail brokerage firm). The term ''distributor'' herein, will refer to any entity that receives an exchange market data product, directly from the exchange or indirectly from another entity (*e.g.,* from a data vendor) and then distributes to individual internal or external end-users (*e.g.,* a retail brokerage firm who distributes exchange data to its individual employees and/or customers). An example of a vendor's ''third-party customer'' or ''customer'' is an institutional broker dealer or a retail broker dealer, who then may in turn distribute the data to their customers who are individual internal or external end-users.

without themselves incurring the costs of the repackaging and aggregating the data it would receive by subscribing to each market data product offered by the individual Cboe Options Exchanges. The Exchange therefore believes that the Cboe One Options Feed would provide high-quality, comprehensive last sale and top-of-book data for the Cboe Options Exchanges in a unified view and respond to demand for such a product.

The Exchange also notes that it has taken into consideration its affiliated relationship with its Affiliates in its design of Cboe One Options Feed to assure distributors and/or vendors would be able to resell and offer a similar product on the same terms as the Exchange, both from a perspective of latency and cost.

With respect to latency, the path for distribution by the Exchange of Cboe One Options Feed would not be faster than the path for distribution by a vendor that independently created a Cboe One Options Feed-like product could distribute its own product. As such, the proposed Cboe One Options data feed is a data product that a vendor could create and sell without being in a disadvantaged position relative to the Exchange. In recognition that the Exchange is the source of its own market data and is affiliated with Cboe Options, EDGX Options and C2 Options, the Exchange represents that the source of the market data it would use to create the proposed Cboe One Options Feed is available to vendors. Specifically, the Exchange would use the following data feeds to create the proposed Cboe One Options Feed, each of which is available to other vendors: the BZX Options Top, Cboe Options Top Data, the C2 Options Top Data, and the EDGX Options Top Feeds. The Cboe Options Exchanges will continue to make available these individual underlying feeds, and thus, the source of the market data it would use to create the proposed Cboe One Options feed is the same as the source available to other vendors.

In order to create the Cboe One Options Feed, the Exchange will receive the individual data feeds from each Cboe Options Exchange and, in turn, aggregate and summarize that data to create the Cboe One Options Feed. This is the same process any entity would undergo should it create a market data product similar to the Cboe One Options Feed to distribute to its customers. In addition, the servers of most vendors could be located in the same facilities as the Exchange, and, therefore, should receive the individual data feed from each Cboe Options Exchange at the same time the Exchange would for it to create the Cboe One Options Feed.[12] Therefore, a vendor that is located in the same facilities as the Exchange could obtain the underlying data feeds from the Cboe Options Exchanges on the same latency basis as the system that would be performing the aggregation and consolidation of the proposed Cboe One Options Feed and provide the same type of product to its customers with the same latency they could achieve by purchasing the Cboe One Options Feed from the Exchange. As such, the Exchange would not have any unfair advantage over vendors with respect to obtaining data from the individual Cboe Options Exchanges. In fact, the technology supporting the Cboe One Options Feed would similarly need to obtain the Exchange's data feed as well and even this connection would be on a level playing field with a vendor located at the same facility as the Exchange. The Exchange has designed the Cboe One Options data feed so that it would not have a competitive advantage over a vendor with respect to the speed of access to those underlying data feeds. Likewise, the Cboe One Options data feed would not have a speed advantage vis-à-vis vendors located in the same data center as the Exchange with respect to access to its customers, whether those customers are also located in the same data center or not.

With regard to cost, the Exchange will file a separate rule filing with the Commission to establish fees for Cboe One Options Feed, which would be designed to ensure that vendors could compete with the Exchange by creating a similar product as the Cboe One Options Feed. The pricing the Exchange would charge for the Cboe One Options Feed would not be lower than the cost to a vendor (or distributor) to obtain the underlying Cboe Options Exchanges' top-of-book data feeds. The pricing the Exchange would charge for the Cboe One Options Feed compared to the cost of the individual data feeds from the Cboe Options Exchanges would enable a vendor to receive the underlying data feeds and offer a similar product on a competitive basis and with no greater latency than the Exchange. The Distribution and User (Professional and Non-Professional) fees that the Exchange intends to propose for the Cboe One Options Feed would be equal to the combined fees for subscribing to each individual data feed. Additionally, the Exchange also intends to propose a separate ''Data Consolidation Fee'', which would reflect the value of the aggregation and consolidation function the Exchange performs in creating the Cboe One Options Feed. The intended proposed pricing would therefore enable a vendor to create a competing product based on the individual data feeds and charge its customer a fee that it believes reflects the value of the aggregation and consolidation function that is competitive with Cboe One Options Feed pricing. For these reasons, the Exchange believes that vendors could readily offer a product similar to the Cboe One Options Feed on a competitive basis at a similar cost.

Implementation

The Exchange will announce when it intends to make available the Cboe One Options feed, subject to the effectiveness of the proposed rule change and the effectiveness of a rule filing to establish the fees (via a separate rule filing).[13]

2. Statutory Basis

The Exchange believes that the proposed Cboe One Options Feed is consistent with Section 6(b) of the Act,[14] in general, and furthers the objectives of Section 6(b)(5) of the Act,[15] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and to protect investors and the public interest, and that it is not designed to permit unfair discrimination among customers, brokers, or dealers. The Exchange also believes this proposal is consistent with Section 6(b)(5) of the Act because it protects investors and the public interest and promotes just and equitable principles of trade by providing investors with new options for receiving market data as requested by market participants and Section 6(b)(8) of the Act, which requires that the rules of an exchange not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.[16]

The Exchange also believes that the proposed rule change is consistent with

[12] The Exchange notes that it does not own the facilities in which its servers are located but is aware that there are vendors that currently locate their servers in the same facilities as the Exchange and on an equal basis as the Exchange. The Exchange is not aware of any reasons why vendors would not be able to locate their servers on an equal basis as the Exchange on an on-going basis.

[13] The Exchange also represents that should it wish to modify the proposed Cboe One Options Feed data product in the future, it will submit a proposed rule change as required under the Act.

[14] 15 U.S.C. 78f.

[15] 15 U.S.C. 78f(b)(5).

[16] 15 U.S.C. 78f(b)(8).

Section 11(A) of the Act [17] in that it supports (i) fair competition among brokers and dealers, among exchange markets, and between exchange markets and markets other than exchange markets and (ii) the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities.

In adopting Regulation NMS, the Commission granted self-regulatory organizations and broker-dealers increased authority and flexibility to offer new and unique market data to consumers of such data. It was believed that this authority would expand the amount of data available to users and consumers of such data and also spur innovation and competition for the provision of market data. The Exchange believes that the proposed Cboe One Options Feed would further broaden the availability of U.S. option market data to investors consistent with the principles of Regulation NMS. Particularly, the Exchange believes the proposed Cboe One Options Feed promotes transparency by disseminating the Cboe Options Exchanges' market data more widely through additional distribution channels, which will enable investors to better monitor trading activity on the Cboe Options Exchanges, and thereby serve the public interest. The Exchange is providing additional distribution channels because it believes market participants may be more inclined to purchase a combined data feed and redistribute it. Particularly, the Exchange believes that market participants would welcome a market data product that would provide high-quality, comprehensive top-of-book and last sale data for the Cboe Options Exchanges in a unified view (*i.e.,* the Cboe One Options Feed).

The Exchange also 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.[18] 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. While there is not currently an aggregated top-of-book data product offered at competitor options exchanges, the quote and last sale data contained in the proposed Cboe One Options Feed is identical to data already provided in the Exchange's and its Affiliate's individual top-of-book data products as well as to the data sent to OPRA for redistribution to the public.[19] Accordingly, Exchange top-of-book data is therefore widely available today from a number of different sources.

Moreover, exchange top-of-book data is distributed and purchased on a voluntary basis, in that neither the Exchange nor market data distributors or vendors are required by any rule or regulation to make this data available. Accordingly, distributors and vendors can discontinue use at any time and for any reason, including due to an assessment of the reasonableness of fees charged. Further, the Exchange is not required to make any proprietary data products available or to offer any specific pricing alternatives to any customers. Moreover, persons (including broker-dealers) who subscribe to any exchange proprietary data feed must also have equivalent access to consolidated Options Information [20] from OPRA for the same classes or series of options that are included in the proprietary data feed, and proprietary data feeds cannot be used to meet that particular requirement.[21] As such, all proprietary data feeds are optional.

Similar to exchanges' individual top-of-book data feeds, the proposed Cboe One Options Feed would be distributed and purchased on a voluntary basis, in that neither the Exchange, its Affiliates, nor market data distributors or vendors are required by any rule or regulation to make this data feed available. Accordingly, distributors and vendors can discontinue use at any time and for any reason, including due to an assessment of the reasonableness of fees charged. The Exchange believes that the proposed Cboe One Options Feed will offer an alternative to subscribing to the Cboe Options Exchanges four individual top-of-book data feeds. Also, as noted above, there is a history of offering similar consolidated data products in the equities industry. Indeed, the Exchange and its affiliated equities exchanges offer the Cboe One Summary Feed, which is a substantially similar data product which contains the aggregate BBO of all displayed orders for securities (instead of options) traded on the Cboe's equities exchanges, along with last sale information.[22] The Cboe One Summary Feed also consists of Symbol Summary, Market Status, Trading Status, and Trade Break messages.[23]

The Exchange believes the proposal would not permit unfair discrimination because the product will be available to all market data distributors and vendors on an equivalent basis. Any distributor or vendor that wishes to instead purchase one or more of the individual data feeds offered by the Cboe Options Exchanges separately will still be able to do so. Further, the Exchange and its Affiliates will continue to make the data contained in the proposed Cboe One Options Feed available no earlier than the time at which the exchanges send that data to OPRA.

In addition, the Exchange does not believe that the proposal would permit unfair discrimination among customers, brokers, or dealers and thus is consistent with the Act because the Exchange will be offering the product on terms that a vendor could offer a competing product. Specifically, the proposed data feed merely represents an aggregation and consolidation of data contained in existing, previously filed individual market data products of the Cboe Options Exchanges. As such, a vendor could similarly obtain the underlying data feeds and perform a similar aggregation and consolidation function to create the same data product as being proposed with the same latency and cost as the Exchange.

The Exchange has taken into consideration its affiliated relationship with Cboe Options, EDGX Options and C2 Options in its design of the Cboe One Options Feed to assure that distributors and/or vendors would be able to offer a similar product on the same terms as the Exchange, both from the perspective of latency and cost. As discussed above, the Exchange proposes to offer the Cboe

[17] 15 U.S.C. 78k–1.

[18] *See* Cboe Global Markets U.S. Options Market Month-to-Date Volume Summary (January 9, 2023), available at *https://markets.cboe.com/us/options/market_statistics/.*

[19] The Exchange notes that it and its Affiliates, make available their respective top-of-book data and last sale data that is included in each exchange's top-of-book data feed no earlier than the time at which the Exchange sends that data to OPRA.

[20] ''Consolidated Options Information'' means consolidated Last Sale Reports combined with either consolidated Quotation Information or the BBO furnished by OPRA. Access to consolidated Options Information is deemed ''equivalent'' if both kinds of information are equally accessible on the same terminal or work station. *See* Limited Liability Company Agreement of Options Price Reporting Authority, LLC (''OPRA Plan''), Section 5.2(c)(iii). The Exchange notes that this requirement under the OPRA Plan is also reiterated under the Cboe Global Markets Global Data Agreement and Cboe Global Markets North American Data Policies, which subscribers to any exchange proprietary product must sign and are subject to, respectively. Additionally, the Exchange's Data Order Form (used for requesting the Exchange's market data products) requires confirmation that the requesting market participant receives data from OPRA.

[21] *Id.*

[22] *See* BZX Rule 11.22(j), BYX Rule 11.22(i), EDGA Rule 13.8(b) and EDGX Rule 13.8(b).

[23] *Id.*

One Options Feed voluntarily in response to demand from market participants such as retail brokerage firms that are interested in receiving and distributing the top-of-book quotation and last sale information from the Cboe Options Exchanges as part of a single data feed. Specifically, Cboe One Options Feed can be used by industry professionals and retail investors looking for a cost effective, easy-to-administer, high quality market data product with the characteristics of the Cboe One Options Feed. The Cboe One Options Feed would help protect a free and open market by providing market participants additional choices in receiving this type of market data, thus promoting competition and innovation.

With respect to latency, the path for distribution by the Exchange of Cboe One Options Feed would not be faster than the path for distribution a vendor that independently created a Cboe One Options Feed-like product could distribute its own product. As such, the proposed Cboe One Options data feed is a data product that a vendor could create and sell without being in a disadvantaged position relative to the Exchange. In recognition that the Exchange is the source of its own market data and is affiliated with Cboe Options, EDGX Options and C2 Options, the Exchange represents that the source of the market data it would use to create the proposed Cboe One Options Feed is available to other vendors. Specifically, the Exchange would use the following data feeds to create the proposed Cboe One Options Feed, each of which is available to other vendors: the BZX Options Top, Cboe Options Top Data, the C2 Options Top Data, and the EDGX Options Top Feeds. The Cboe Options Exchanges will continue to make available these individual underlying feeds, and thus, the source of the market data it would use to create the proposed Cboe One Options feed is the same as the source available to other vendors.

In order to create the Cboe One Options Feed, the Exchange will receive the individual data feeds from each Cboe Options Exchange and, in turn, aggregate and summarize that data to create the Cboe One Options Feed. This is the same process any vendor would undergo should it create a market data product similar to the Cboe One Options Feed to distribute to its customers. In addition, the servers of most vendors could be located in the same facilities as the Exchange, and, therefore, should receive the individual data feed from each Cboe Options Exchange at the same time the Exchange would for it to create the Cboe One Options Feed. Therefore, a vendor that is located in the same facilities as the Exchange could obtain the underlying data feeds from the Cboe Options Exchanges on the same latency basis as the system that would be performing the aggregation and consolidation of the proposed Cboe One Options Feed and provide the same type of product to its customers with the same latency they could achieve by purchasing the Cboe One Options Feed from the Exchange. As such, the Exchange would not have any unfair advantage over vendors with respect to obtaining data from the individual Cboe Options Exchanges. In fact, the technology supporting the Cboe One Options Feed would similarly need to obtain the Exchange's data feed as well and even this connection would be on a level playing field with a vendor located at the same facility as the Exchange. The Exchange has designed the Cboe One Options data feed so that it would not have a competitive advantage over a vendor with respect to the speed of access to those underlying data feeds. Likewise, the Cboe One Options data feed would not have a speed advantage vis-à-vis vendors located in the same data center as the Exchange with respect to access to customers, whether those customers are also located in the same data center or not.

With regard to cost, the Exchange will file a separate rule filing with the Commission to establish fees for Cboe One Options Feed, which would be designed to ensure that vendors could compete with the Exchange by creating a similar product as the Cboe One Options Feed to offer and resell. The pricing the Exchange would charge for the Cboe One Options Feed would not be lower than the cost to a vendor (or distributor) to obtain the underlying Cboe Options Exchanges' top-of-book data feeds. The pricing the Exchange would charge clients for the Cboe One Options Feed compared to the cost of the individual data feeds from the Cboe Options Exchanges would enable a vendor to receive the underlying data feeds and offer a similar product on a competitive basis and with no greater latency than the Exchange. The Distribution and User (Professional and Non-Professional) fees that the Exchange intends to propose for the Cboe One Options Feed would be equal to the combined fees for subscribing to each individual data feed.[24] The Exchange also intends to propose a separate ''Data Consolidation Fee'', which would reflect the value of the aggregation and consolidation function the Exchange performs in creating the Cboe One Options Feed. The intended proposed fees would therefore enable a vendor to create a product based on the individual data feeds and charge its clients a fee that it believes reflects the value of the aggregation and consolidation function that is competitive with Cboe One Options Feed pricing. For these reasons, the Exchange believes that vendors could readily offer a product similar to the Cboe One Options Feed on a competitive basis at a similar cost.

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. Because the Exchange and its affiliates, along with other exchanges already offer the similar underlying data products, the Exchange's proposed Cboe One Options Feed will enhance competition. This proposed new data feed provides investors with new options for receiving market data, which was a primary goal of the market data amendments adopted by Regulation NMS.[25] As the Cboe Options Exchanges are consistently one of the top exchange operators by market share for U.S. options trading the data included within the Cboe One Options Feed will provide investors a new option for obtaining a broad market view, consistent with the primary goal of the market data amendments adopted by Regulation NMS.

The Exchange believes the Cboe One Options Feed will further enhance competition by providing distributors and vendors with a data feed that allows them to more quickly and efficiently integrate into their existing products. For example, today, vendors may

[24] For example, the combined external distribution fee for the individual data feeds of the Cboe Options Exchanges is $10,000 per month (*i.e.,* the monthly external distribution fee is $5,000 per month for the Cboe Options Top, $2,500 per month for C2 Options Top $2,000 per month for BZX Options Top, and $500 for EDGX Options Top). The monthly Professional User fee for the individual data feeds of the Cboe Options Exchanges is $30.50 per Professional User (*i.e.,* the monthly Professional User fee is $15.50 per Professional User for the Cboe Options Top, $5 per Professional User for C2 Options Top; $5 per Professional User for BZX Options Top, and $5 per Professional User for EDGX Options Top). The combined monthly Non-Professional User fee for the individual data feeds of the Cboe Options Exchanges is $0.60 per Non-Professional User (*i.e.,* the monthly Non-Professional User fee is $0.30 per Non-Professional User for Cboe Options Top, $0.10 per Non-Professional User for C2 Options Top, $0.10 per Non-Professional User for BZX Options Top, and $0.10 per Non-Professional User for EDGX Options Top).

[25] See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, at 37503 (June 29, 2005) (Regulation NMS Adopting Release).

subscribe to various market data products offered by single exchanges and resell that data, either separately or in the aggregate, to their customers as part of their own market data offerings. Distributors and vendors may incur administrative costs when consolidating and augmenting the data to meet their customer's need. Consequently, many distributors and/or vendors will simply choose to not take the data from each of the Cboe Options Exchanges because of the effort and cost required to aggregate data from separate feeds into their existing products. Those same distributors and/or vendors may therefore be interested in the Cboe One Options Feed as they may easily incorporate aggregated or summarized Cboe Options Exchanges' data into their own products without themselves incurring the costs of the repackaging and aggregating the data it would receive by purchasing each market data product offered by the individual Cboe Options Exchanges separately. The Exchange therefore believes that by providing market data that encompasses combined data from affiliated exchanges, the Exchange enables vendors with the ability to compete in the provision of similar content with other vendors, where they may not have done so previously if they were required to purchase the top-of-book feeds from each individual Cboe options exchanges separately.

Although the Exchange considers the acceptance of the Cboe One Options Feed by distributors and vendors as important to the success of the product, depending on their needs, such distributors and vendors may choose not to subscribe to the Cboe One Options Feed and may rather receive the Cboe Options Exchanges' individual market data products and incorporate them into their specific market data products. The Cboe One Options Feed simply provides another option for distributors and vendors to choose from when selecting a product that meets their market data needs.

Exchange Not the Exclusive Distributor of Cboe One Options Feed

Although the Cboe Options Exchanges are the exclusive distributors of the individual data feeds from which certain data elements would be taken to create the Cboe One Options Feed, the Exchange would not be the exclusive distributor of the aggregated and consolidated information that would compose the proposed Cboe One Options Feed. As discussed above, distributors and/or vendors would be able, if they chose, to create a data feed with the same information as the Cboe One Options Feed and distribute it to their clients on a level-playing field with respect to latency and cost as compared to the Exchange's proposed Cboe One Options Feed. The pricing the Exchange would charge for the Cboe One Options Feed would not be lower than the cost to a distributor or vendor to obtain the underlying data feeds. In addition, the pricing the Exchange would charge clients for the Cboe One Options Feed compared to the cost of the individual data feeds from the Cboe Options Exchanges would enable a distributor and/or vendor to receive the underlying data feeds and offer a similar product on a competitive basis and with no greater latency than the Exchange.

Latency

The Cboe One Options Feed is also not intended to compete with similar products offered by distributors. Rather, it is intended to assist them in incorporating aggregated and summarized data from the Cboe Options Exchanges into their own market data products that are provided to their customers. Therefore, distributors will receive the data, who will, in turn, make available Cboe One Options Feed to their end users, either separately or as incorporated into the various market data products they provide. As stated above distributors may prefer a product like the Cboe One Options Feed so that they may easily incorporate aggregated or summarized Cboe Options Exchange data into their own products without themselves incurring the administrative costs of repackaging and aggregating the data it would receive by subscribing to each market data product offered by the individual Cboe Options Exchanges.

Notwithstanding the above, the Exchange believes that vendors may create a product similar to Cboe One Options Feed based on the market data products offered by the individual Cboe Options Exchanges with no greater latency than the Exchange. As discussed above, in order to create the Cboe One Options Feed, the Exchange will receive the individual data feeds from each Cboe Options Exchange and, in turn, aggregate and summarize that data to create the Cboe One Options Feed. This is the same process a vendor would undergo should it create a market data product similar to the Cboe One Options Feed to distribute to its customers. In addition, the servers of most vendors could be located in the same facilities as the Exchange, and, therefore, should receive the individual data feed from each Cboe Options Exchange at the same time the Exchange would for it to create the Cboe One Options Feed.

The Exchange has designed the Cboe One Options data feed so that it would not have a competitive advantage over a vendor with respect to the speed of access to those underlying data feeds. Likewise, the Cboe One Options data feed would not have a speed advantage vis-à-vis vendors located in the same data center as the Exchange with respect to access to their customers, whether those end users are also located in the same data center or not. Therefore, the Exchange believes that it will not incur any potential latency advantage that will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Cost

With regard to cost, the Exchange will file a separate rule filing with the Commission to establish fees for Cboe One Options Feed that would be designed to ensure that vendors could compete with the Exchange by creating a similar product as the Cboe One Options Feed. The pricing the Exchange would charge clients for the Cboe One Options Feed compared to the cost of the individual data feeds from the Cboe Options Exchanges would enable a vendor to receive the underlying data feeds and offer a similar product on a competitive basis and with no greater latency than the Exchange. The Distribution and User (Professional and Non-Professional) fees that the Exchange proposes for the Cboe One Options Feed will be equal to the combined fees for subscribing to each individual data feed. Moreover, as discussed, the Exchange intends to propose a separate ''Data Consolidation Fee'', which would reflect the value of the aggregation and consolidation function the Exchange performs in creating the Cboe One Options Feed. Therefore, vendors would be enabled to create a competing product based on the individual data feeds and charge their clients a fee that they believe reflects the value of the aggregation and consolidation function that is competitive with Cboe One Options Feed pricing. For these reasons, the Exchange believes that vendors could readily offer a product similar to the Cboe One Options Feed on a competitive basis at a similar cost.

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 Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act [26] and Rule 19b–4(f)(6) [27] thereunder. Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [28] and Rule 19b–4(f)(6) [29] thereunder.

A proposed rule change filed under Rule 19b–4(f)(6) [30] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[31] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the Exchange can launch the proposed Cboe One Options Feed on March 1, 2023, which is the date the original filing (SR–CboeBZX–2023–004) would have been operative. The Commission notes that Nasdaq in its comment letter believed that ''the Cboe One Feed Proposal should clearly explain the obligations of the OPRA Plan by specifically noting that any person who subscribes to the Cboe One Feed must have equivalent access to OPRA and remove the misleading language identified'' by Nasdaq.[32] Nasdaq further requested that marketing materials for the Cboe One Options Feed clearly indicate this requirement to ensure compliance with the OPRA Plan.[33] The Commission believes that the Exchange has addressed the concerns raised by Nasdaq by removing the language Nasdaq found misleading and clarifying the obligations under the OPRA Plan. Specifically, the Exchange has represented that any person, including broker-dealers, who subscribe to the Cboe One Options Feed must also have equivalent access to consolidated Options Information from OPRA for the same classes or series of options that are included in the proprietary data feed, and proprietary data feeds cannot be used to meet that particular requirement.[34] The Commission notes that no other substantive changes from the Exchange's original filing are being made with this filing. Therefore, the Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission designates the proposed rule change to be operative on March 1, 2023.[35]

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–CboeBZX–2023–014 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–2023–014. 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–2023–014 and should be submitted on or before March 28, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[36]

Sherry R. Haywood,

Assistant Secretary.

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[26] 15 U.S.C. 78s(b)(3)(A).

[27] 17 CFR 240.19b–4(f)(6).

[28] 15 U.S.C. 78s(b)(3)(A).

[29] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[30] 17 CFR 240.19b–4(f)(6).

[31] 17 CFR 240.19b–4(f)(6)(iii).

[32] *See* Letter from Greg Ferrari, Vice President, U.S. Options, Nasdaq, *supra* note 3, at 2. Nasdaq submitted a comment letter to CBOE–2023–009, which was the companion filing to CboeBZX–2023–004, adopting the Cboe One Options Feed.

[33] *Id.* at 2–3.

[34] *See supra* notes 20–21 and accompanying text. As discussed above, the Exchange has also represented that the requirement under the OPRA Plan is included in the Cboe Global Markets Global Data Agreement and Cboe Global Markets North American Data Policies, which subscribers to any exchange proprietary product must sign and are subject to, respectively. Additionally, the Exchange has represented that its Data Order Form (used for requesting the Exchange's market data products) requires confirmation that the requesting market participant receives data from OPRA. *See supra* note 20.

[35] For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[36] 17 CFR 200.30–3(a)(12), (59).

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–275, OMB Control No. 3235–0310]

Proposed Collection; Comment Request; Extension: Rule 22d–1

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services,

100 F Street NE, Washington, DC 20549–2736

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (''Paperwork Reduction Act'') (44 U.S.C. 3501–3520), the Securities and Exchange Commission (the ''Commission'') is soliciting comments on the collections of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Rule 22d–1 under the Investment Company Act of 1940 (the ''1940 Act'') (17 CFR 270.22d–1) provides registered investment companies that issue redeemable securities (''funds'') an exemption from section 22(d) of the 1940 Act (15 U.S.C. 80a–22(d)) to the extent necessary to permit scheduled variations in or elimination of the sales load on fund securities for particular classes of investors or transactions, provided certain conditions are met. The rule imposes an annual burden per series of a fund of approximately 15 minutes, so that the total annual burden for the approximately 3,776 series of funds that might rely on the rule is estimated to be 944 hours.[1]

The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act. The estimate is based on communications with industry representatives, and is not derived from a comprehensive or even a representative survey or study. Responses will not be kept confidential. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Written comments are invited on: (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 estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information 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 by May 8, 2023.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

Please direct your written comments to: David Bottom, Acting Director/Chief Information Officer, Securities and Exchange Commission, c/o John Pezzullo, 100 F Street NE, Washington, DC 20549 or send an email to: *PRA_Mailbox@sec.gov*.

Dated: March 2, 2023.

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–04629 Filed 3–6–23; 8:45 am]

BILLING CODE 8011–01–P

[1] This estimate is based on the following calculation: 3,776 series × 0.25 burden hours = 944 total annual burden hours.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–97011; File No. SR–CBOE–2023–012]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Adopt a New Data Product Called the Cboe One Options Feed

March 1, 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 February 27, 2023, Cboe Exchange, Inc. (''Exchange'' or ''Cboe Options'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The 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 adopt a new data product called the Cboe One Options Feed.

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 establish a new market data product called the Cboe One Options Feed.[3] As described more fully below, the Cboe One Options Feed is a data feed that that will offer top of book quotations and execution information based on options orders entered into the Exchange System and its affiliated options exchanges, Cboe C2 Exchange, Inc. (''C2''), Cboe BZX Exchange, Inc. (''BZX Options'') and Cboe EDGX Exchange, Inc. (''EDGX Options'') (collectively, the ''Affiliates'' and collectively with the Exchange, the ''Cboe Options Exchanges'') and for which the Cboe Options Exchanges report quotes under the OPRA Plan.[4]

Currently, the Exchange offers Cboe Options Top Data feed, which is an uncompressed data feed that offers top-of-book quotations and last sale information based on options orders entered into the Exchange's System. The Cboe Options Top Data feed benefits investors by facilitating their prompt access to real-time top-of-book information contained in Cboe Options Top Data. The Exchange notes that Cboe Options Top Data is ideal for market participants requiring both quote and trade data. The Exchange's Affiliates

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Exchange previously submitted the proposed rule change on January 30, 2023 (SR–CBOE–2023–009). *See* Securities Exchange Act Release No. 96885 (February 10, 2023), 88 FR 10165, (February 16, 2023) (SR–CBOE–2023–009). The Exchange is withdrawing SR–CBOE–2023–009 and submitting this filing to make clarifying, non-substantive changes to more clearly reflect the obligations under the OPRA Plan, which the Exchange believes will avoid potential confusion, as well as address the comments raised by another exchange group in a comment letter received on February 23, 2023. *See* Letter from Greg Ferrari, Vice President, U.S. Options, Nasdaq Stock Market LLC, Nasdaq PHLX LLC, Nasdaq BX, Inc., Nasdaq ISE, LLC, Nasdaq GEMX, LLC, and Nasdaq MRX, LLC markets (collectively ''Nasdaq''), to Vanessa Countryman, Secretary Commission, dated February 23, 2023.

[4] The Exchange understands that each of the Cboe Options Exchanges will separately file substantially similar proposed rule changes to implement Cboe One Options Feed and its related fees.

also offer similar top-of-book data.[5] Particularly, each of the Exchange's Affiliates 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 Data. Further, the quote and last sale data contained in the Exchange's Affiliates top feeds 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.

The Exchange now proposes to adopt a market data product that will provide top-of-book quotation and last sale information based on the quotation and trading activity on the Exchange and each of its Affiliates, which the Exchange believes will offer a comprehensive and highly representative view of US options pricing to market participants. More specifically, the proposed Cboe One Options Feed will contain the aggregate best bid and offer (''BBO'') of all displayed orders for options traded on the Exchange and its Affiliates, as well as individual last sale information and volume, which includes the price, time of execution and individual Cboe options exchange on which the trade was executed. The Cboe One Options Feed will also consist of Symbol Summary,[6] Market Status,[7] Trading Status,[8] and Trade Break [9] messages for the Exchange and each of its Affiliates.

The Exchange notes its affiliated equities exchanges Cboe BYX Exchange, Inc. (''BYX''), Cboe BZX Exchange, Inc. (''BZX Equities''), Cboe EDGA Exchange, Inc. (''EDGA'') and Cboe EDGX Exchange, Inc. (''EDGX Equities'') already offer a similar data product, the Cboe One Summary Feed, which contains the aggregate best bid and offer of all displayed orders for securities traded on each of the Exchange's affiliated equities exchanges as well as last sale information for each of the Exchange's affiliated equities exchanges.[10] The Cboe One Summary Feed also consists of Symbol Summary, Market Status, Trading Status, and Trade Break messages for each of its affiliated equities exchanges.

Particularly, the Cboe One Options Feed will offer market participants with a new option for receiving Cboe market data that provides a consolidated view of activity on all Cboe options exchanges. The Exchange proposes to offer the Cboe One Options Feed voluntarily in response to demand from market participants (*e.g.,* retail brokerage firms) that are interested in receiving the aggregate top of book quotation and last sale information from the Cboe Options Exchanges as part of a single data feed. Specifically, Cboe One Options Feed can be used by industry professionals and retail investors looking for a cost effective, easy-to-administer, high quality market data product with the characteristics of the Cboe One Options Feed. For example, today an entity can subscribe to various market data products offered by single exchanges and distribute or resell that data, either separately or in the aggregate, to their customers as part of their own market data offerings.[11] Distributors and vendors may incur administrative costs when consolidating and augmenting the data to meet their customer's need. Consequently, distributors and/or vendors may simply choose to not take the data from each of the Cboe Options Exchanges because of the effort and cost required to aggregate data from separate feeds into their existing products. The Exchange believes those same distributors and/or vendors may be interested in distributing the Cboe One Options Feed so that they may easily incorporate aggregated or summarized Cboe Options Exchange data into their own products without themselves incurring the costs of the repackaging and aggregating the data it would receive by subscribing to each market data product offered by the individual Cboe Options Exchanges. The Exchange therefore believes that the Cboe One Options Feed would provide high-quality, comprehensive last sale and top-of-book data for the Cboe Options Exchanges in a unified view and respond to demand for such a product.

The Exchange also notes that it has taken into consideration its affiliated relationship with its Affiliates in its design of Cboe One Options Feed to assure distributors and/or vendors would be able to resell and offer a similar product on the same terms as the Exchange, both from a perspective of latency and cost.

With respect to latency, the path for distribution by the Exchange of Cboe One Options Feed would not be faster than the path for distribution by a vendor that independently created a Cboe One Options Feed-like product could distribute its own product. As such, the proposed Cboe One Options data feed is a data product that a vendor could create and sell without being in a disadvantaged position relative to the Exchange. In recognition that the Exchange is the source of its own market data and is affiliated with C2, BZX Options and EDGX Options, the Exchange represents that the source of the market data it would use to create the proposed Cboe One Options Feed is available to vendors. Specifically, the Exchange would use the following data feeds to create the proposed Cboe One Options Feed, each of which is available to other vendors: the EDGX Options Top, Cboe Options Top Data, the C2 Options Top Data, and the BZX Options Top Feeds. The Cboe Options Exchanges will continue to make available these individual underlying feeds, and thus, the source of the market data it would use to create the proposed Cboe One Options feed is the same as the source available to other vendors.

In order to create the Cboe One Options Feed, the Exchange will receive the individual data feeds from each Cboe Options Exchange and, in turn, aggregate and summarize that data to create the Cboe One Options Feed. This is the same process any entity would

[5] *See* C2 Options Exchange Fees Schedule, Cboe Data Services, LLC Fees, EDGX Rule 21.15, and BZX Rule 21.15.

[6] The Symbol Summary message will include the total executed volume across all Cboe Options Exchanges.

[7] The Market Status message is disseminated to reflect a change in the status of one of the Cboe Options Exchanges. For example, the Market Status message will indicate whether one of the Cboe Options Exchanges is experiencing a systems issue or disruption and quotation or trade information from that market is not currently being disseminated via the Cboe One Options Feed as part of the aggregated BBO. The Market Status message will also indicate when a Cboe Options Exchange is no longer experiencing a systems issue or disruption to properly reflect the status of the aggregated BBO.

[8] The Trade Break message will indicate when an execution on a Cboe Options Exchange is broken in accordance with the individual Cboe Options Exchange's rules (*e.g.,* Cboe Options Rule 6.5, C2 Option Rule 6.5, BZX Options Rule 20.6, EDGX Options Rule 20.6).

[9] The Trading Status message will indicate the current trading status of an option contract on each individual Cboe Options Exchange. A Trading Status message will also be sent whenever a security's trading status changes. For example, a Trading Status message will be sent when a symbol is open for trading or when a symbol is subject to a trading halt or when it resumes trading.

[10] *See* BZX Rule 11.22(j), BYX Rule 11.22(i), EDGA Rule 13.8(b) and EDGX Rule 13.8(b).

[11] For purposes of this filing, a ''vendor'', which is a type of distributor, will refer to any entity that receives an exchange market data product directly from the exchange or indirectly from another entity (for example, from an extranet) and then resells that data to a third-party customer (*e.g.,* a data provider that resells exchange market data to a retail brokerage firm). The term ''distributor'' herein, will refer to any entity that receives an exchange market data product, directly from the exchange or indirectly from another entity (*e.g.,* from a data vendor) and then distributes to individual internal or external end-users (*e.g.,* a retail brokerage firm who distributes exchange data to its individual employees and/or customers). An example of a vendor's ''third-party customer'' or ''customer'' is an institutional broker dealer or a retail broker dealer, who then may in turn distribute the data to their customers who are individual internal or external end-users.

undergo should it create a market data product similar to the Cboe One Options Feed to distribute to its customers. In addition, the servers of most vendors could be located in the same facilities as the Exchange, and, therefore, should receive the individual data feed from each Cboe Options Exchange at the same time the Exchange would for it to create the Cboe One Options Feed.[12] Therefore, a vendor that is located in the same facilities as the Exchange could obtain the underlying data feeds from the Cboe Options Exchanges on the same latency basis as the system that would be performing the aggregation and consolidation of the proposed Cboe One Options Feed and provide the same type of product to its customers with the same latency they could achieve by purchasing the Cboe One Options Feed from the Exchange. As such, the Exchange would not have any unfair advantage over vendors with respect to obtaining data from the individual Cboe Options Exchanges. In fact, the technology supporting the Cboe One Options Feed would similarly need to obtain the Exchange's data feed as well and even this connection would be on a level playing field with a vendor located at the same facility as the Exchange. The Exchange has designed the Cboe One Options data feed so that it would not have a competitive advantage over a vendor with respect to the speed of access to those underlying data feeds. Likewise, the Cboe One Options data feed would not have a speed advantage vis-à-vis vendors located in the same data center as the Exchange with respect to access to its customers, whether those customers are also located in the same data center or not.

With regard to cost, the Exchange will file a separate rule filing with the Commission to establish fees for Cboe One Options Feed, which would be designed to ensure that vendors could compete with the Exchange by creating a similar product as the Cboe One Options Feed. The pricing the Exchange would charge for the Cboe One Options Feed would not be lower than the cost to a vendor (or distributor) to obtain the underlying Cboe Options Exchanges' top-of-book data feeds. The pricing the Exchange would charge for the Cboe One Options Feed compared to the cost of the individual data feeds from the Cboe Options Exchanges would enable a vendor to receive the underlying data feeds and offer a similar product on a competitive basis and with no greater latency than the Exchange. The Distribution and User (Professional and Non-Professional) fees that the Exchange intends to propose for the Cboe One Options Feed would be equal to the combined fees for subscribing to each individual data feed. Additionally, the Exchange also intends to propose a separate ''Data Consolidation Fee'', which would reflect the value of the aggregation and consolidation function the Exchange performs in creating the Cboe One Options Feed. The intended proposed pricing would therefore enable a vendor to create a competing product based on the individual data feeds and charge its customer a fee that it believes reflects the value of the aggregation and consolidation function that is competitive with Cboe One Options Feed pricing. For these reasons, the Exchange believes that vendors could readily offer a product similar to the Cboe One Options Feed on a competitive basis at a similar cost.

Implementation

The Exchange will announce when it intends to make available the Cboe One Options feed, subject to the effectiveness of the proposed rule change and the effectiveness of a rule filing to establish the fees (via a separate rule filing).[13]

2. Statutory Basis

The Exchange believes that the proposed Cboe One Options Feed is consistent with Section 6(b) of the Act,[14] in general, and furthers the objectives of Section 6(b)(5) of the Act,[15] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and to protect investors and the public interest, and that it is not designed to permit unfair discrimination among customers, brokers, or dealers. The Exchange also believes this proposal is consistent with Section 6(b)(5) of the Act because it protects investors and the public interest and promotes just and equitable principles of trade by providing investors with new options for receiving market data as requested by market participants and Section 6(b)(8) of the Act, which requires that the rules of an exchange not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.[16] The Exchange also believes that the proposed rule change is consistent with Section 11(A) of the Act[17] in that it supports (i) fair competition among brokers and dealers, among exchange markets, and between exchange markets and markets other than exchange markets and (ii) the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities. In adopting Regulation NMS, the Commission granted self-regulatory organizations and broker-dealers increased authority and flexibility to offer new and unique market data to consumers of such data. It was believed that this authority would expand the amount of data available to users and consumers of such data and also spur innovation and competition for the provision of market data. The Exchange believes that the proposed Cboe One Options Feed would further broaden the availability of U.S. option market data to investors consistent with the principles of Regulation NMS. Particularly, the Exchange believes the proposed Cboe One Options Feed promotes transparency by disseminating the Cboe Options Exchanges' market data more widely through additional distribution channels, which will enable investors to better monitor trading activity on the Cboe Options Exchanges, and thereby serve the public interest. The Exchange is providing additional distribution channels because it believes market participants may be more inclined to purchase a combined data feed and redistribute it. Particularly, the Exchange believes that market participants would welcome a market data product that would provide high-quality, comprehensive top-of-book and last sale data for the Cboe Options Exchanges in a unified view (*i.e.,* the Cboe One Options Feed).

The Exchange also 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.[18] The Exchange believes top-of-book quotation and transaction

[12] The Exchange notes that it does not own the facilities in which its servers are located but is aware that there are vendors that currently locate their servers in the same facilities as the Exchange and on an equal basis as the Exchange. The Exchange is not aware of any reasons why vendors would not be able to locate their servers on an equal basis as the Exchange on an on-going basis.

[13] The Exchange also represents that should it wish to modify the proposed Cboe One Options Feed data product in the future, it will submit a proposed rule change as required under the Act.

[14] 15 U.S.C. 78f.

[15] 15 U.S.C. 78f(b)(5).

[16] 15 U.S.C. 78f(b)(8).

[17] 15 U.S.C. 78k–1.

[18] *See* Cboe Global Markets U.S. Options Market Month-to-Date Volume Summary (January 9, 2023), available at *https://markets.cboe.com/us/options/market_statistics/.*

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. While there is not currently an aggregated top-of-book data product offered at competitor options exchanges, the quote and last sale data contained in the proposed Cboe One Options Feed is identical to data already provided in the Exchange's and its Affiliate's individual top-of-book data products as well as to the data sent to OPRA for redistribution to the public (including data relating to any exchange's proprietary and exclusively listed products).[19] Accordingly, Exchange top-of-book data is therefore widely available today from a number of different sources.

Moreover, exchange top-of-book data is distributed and purchased on a voluntary basis, in that neither the Exchange nor market data distributors or vendors are required by any rule or regulation to make this data available. Accordingly, distributors and vendors can discontinue use at any time and for any reason, including due to an assessment of the reasonableness of fees charged. Further, the Exchange is not required to make any proprietary data products available or to offer any specific pricing alternatives to any customers. Moreover, persons (including broker-dealers) who subscribe to any exchange proprietary data feed must also have equivalent access to consolidated Options Information [20] from OPRA for the same classes or series of options that are included in the proprietary data feed, and proprietary data feeds cannot be used to meet that particular requirement.[21] As such, all proprietary data feeds are optional.

Similar to exchanges' individual top-of-book data feeds, the proposed Cboe One Options Feed would be distributed and purchased on a voluntary basis, in that neither the Exchange, its Affiliates, nor market data distributors or vendors are required by any rule or regulation to make this data feed available. Accordingly, distributors and vendors can discontinue use at any time and for any reason, including due to an assessment of the reasonableness of fees charged. The Exchange believes that the proposed Cboe One Options Feed will offer an alternative to subscribing to the Cboe Options Exchanges four individual top-of-book data feeds. Also, as noted above, there is a history of offering similar consolidated data products in the equities industry. Indeed, the Exchange's affiliated equities exchanges offer the Cboe One Summary Feed, which is a substantially similar data product which contains the aggregate BBO of all displayed orders for securities (instead of options) traded on the Cboe's equities exchanges, along with last sale information.[22] The Cboe One Summary Feed also consists of Symbol Summary, Market Status, Trading Status, and Trade Break messages.[23]

The Exchange believes the proposal would not permit unfair discrimination because the product will be available to all market data distributors and vendors on an equivalent basis. Any distributor or vendor that wishes to instead purchase one or more of the individual data feeds offered by the Cboe Options Exchanges separately will still be able to do so. Further, the Exchange and its Affiliates will continue to make the data contained in the proposed Cboe One Options Feed available no earlier than the time at which the exchanges send that data to OPRA.

In addition, the Exchange does not believe that the proposal would permit unfair discrimination among customers, brokers, or dealers and thus is consistent with the Act because the Exchange will be offering the product on terms that a vendor could offer a competing product. Specifically, the proposed data feed merely represents an aggregation and consolidation of data contained in existing, previously filed individual market data products of the Cboe Options Exchanges. As such, a vendor could similarly obtain the underlying data feeds and perform a similar aggregation and consolidation function to create the same data product as being proposed with the same latency and cost as the Exchange.

The Exchange has taken into consideration its affiliated relationship with C2, BZX Options and EDGX Options in its design of the Cboe One Options Feed to assure that distributors and/or vendors would be able to offer a similar product on the same terms as the Exchange, both from the perspective of latency and cost. As discussed above, the Exchange proposes to offer the Cboe One Options Feed voluntarily in response to demand from market participants such as retail brokerage firms that are interested in receiving and distributing the top-of-book quotation and last sale information from the Cboe Options Exchanges as part of a single data feed. Specifically, Cboe One Options Feed can be used by industry professionals and retail investors looking for a cost effective, easy-to-administer, high quality market data product with the characteristics of the Cboe One Options Feed. The Cboe One Options Feed would help protect a free and open market by providing market participants additional choices in receiving this type of market data, thus promoting competition and innovation.

With respect to latency, the path for distribution by the Exchange of Cboe One Options Feed would not be faster than the path for distribution a vendor that independently created a Cboe One Options Feed-like product could distribute its own product. As such, the proposed Cboe One Options data feed is a data product that a vendor could create and sell without being in a disadvantaged position relative to the Exchange. In recognition that the Exchange is the source of its own market data and is affiliated with C2, BZX Options and EDGX Options, the Exchange represents that the source of the market data it would use to create the proposed Cboe One Options Feed is available to other vendors. Specifically, the Exchange would use the following data feeds to create the proposed Cboe One Options Feed, each of which is available to other vendors: the EDGX Options Top, Cboe Options Top Data, the C2 Options Top Data, and the BZX Options Top Feeds. The Cboe Options Exchanges will continue to make available these individual underlying feeds, and thus, the source of the market data it would use to create the proposed Cboe One Options feed is the same as the source available to other vendors.

In order to create the Cboe One Options Feed, the Exchange will receive the individual data feeds from each Cboe Options Exchange and, in turn, aggregate and summarize that data to create the Cboe One Options Feed. This

[19] The Exchange notes that it and its Affiliates, make available their respective top-of-book data and last sale data that is included in each exchange's top-of-book data feed no earlier than the time at which the Exchange sends that data to OPRA.

[20] ''Consolidated Options Information'' means consolidated Last Sale Reports combined with either consolidated Quotation Information or the BBO furnished by OPRA. Access to consolidated Options Information is deemed ''equivalent'' if both kinds of information are equally accessible on the same terminal or work station. *See* Limited Liability Company Agreement of Options Price Reporting Authority, LLC (''OPRA Plan''), Section 5.2(c)(iii). The Exchange notes that this requirement under the OPRA Plan is also reiterated under the Cboe Global Markets Global Data Agreement and Cboe Global Markets North American Data Policies, which subscribers to any exchange proprietary product must sign and are subject to, respectively. Additionally, the Exchange's Data Order Form (used for requesting the Exchange's market data products) requires confirmation that the requesting market participant receives data from OPRA.

[21] *Id.*

[22] *See* BZX Rule 11.22(j), BYX Rule 11.22(i), EDGA Rule 13.8(b) and EDGX Rule 13.8(b).

[23] *Id.*

is the same process any vendor would undergo should it create a market data product similar to the Cboe One Options Feed to distribute to its customers. In addition, the servers of most vendors could be located in the same facilities as the Exchange, and, therefore, should receive the individual data feed from each Cboe Options Exchange at the same time the Exchange would for it to create the Cboe One Options Feed. Therefore, a vendor that is located in the same facilities as the Exchange could obtain the underlying data feeds from the Cboe Options Exchanges on the same latency basis as the system that would be performing the aggregation and consolidation of the proposed Cboe One Options Feed and provide the same type of product to its customers with the same latency they could achieve by purchasing the Cboe One Options Feed from the Exchange. As such, the Exchange would not have any unfair advantage over vendors with respect to obtaining data from the individual Cboe Options Exchanges. In fact, the technology supporting the Cboe One Options Feed would similarly need to obtain the Exchange's data feed as well and even this connection would be on a level playing field with a vendor located at the same facility as the Exchange. The Exchange has designed the Cboe One Options data feed so that it would not have a competitive advantage over a vendor with respect to the speed of access to those underlying data feeds. Likewise, the Cboe One Options data feed would not have a speed advantage vis-à-vis vendors located in the same data center as the Exchange with respect to access to customers, whether those customers are also located in the same data center or not.

With regard to cost, the Exchange will file a separate rule filing with the Commission to establish fees for Cboe One Options Feed, which would be designed to ensure that vendors could compete with the Exchange by creating a similar product as the Cboe One Options Feed to offer and resell. The pricing the Exchange would charge for the Cboe One Options Feed would not be lower than the cost to a vendor (or distributor) to obtain the underlying Cboe Options Exchanges' top-of-book data feeds. The pricing the Exchange would charge clients for the Cboe One Options Feed compared to the cost of the individual data feeds from the Cboe Options Exchanges would enable a vendor to receive the underlying data feeds and offer a similar product on a competitive basis and with no greater latency than the Exchange. The Distribution and User (Professional and Non-Professional) fees that the Exchange intends to propose for the Cboe One Options Feed would be equal to the combined fees for subscribing to each individual data feed.[24] The Exchange also intends to propose a separate ''Data Consolidation Fee'', which would reflect the value of the aggregation and consolidation function the Exchange performs in creating the Cboe One Options Feed. The intended proposed fees would therefore enable a vendor to create a product based on the individual data feeds and charge its clients a fee that it believes reflects the value of the aggregation and consolidation function that is competitive with Cboe One Options Feed pricing. For these reasons, the Exchange believes that vendors could readily offer a product similar to the Cboe One Options Feed on a competitive basis at a similar cost.

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. Because the Exchange and its affiliates, along with other exchanges already offer the similar underlying data products, the Exchange's proposed Cboe One Options Feed will enhance competition. This proposed new data feed provides investors with new options for receiving market data, which was a primary goal of the market data amendments adopted by Regulation NMS.[25] As the Cboe Options Exchanges are consistently one of the top exchange operators by market share for U.S. options trading the data included within the Cboe One Options Feed will provide investors a new option for obtaining a broad market view, consistent with the primary goal of the market data amendments adopted by Regulation NMS.

The Exchange believes the Cboe One Options Feed will further enhance competition by providing distributors and vendors with a data feed that allows them to more quickly and efficiently integrate into their existing products. For example, today, vendors may subscribe to various market data products offered by single exchanges and resell that data, either separately or in the aggregate, to their customers as part of their own market data offerings. Distributors and vendors may incur administrative costs when consolidating and augmenting the data to meet their customer's need. Consequently, many distributors and/or vendors will simply choose to not take the data from each of the Cboe Options Exchanges because of the effort and cost required to aggregate data from separate feeds into their existing products. Those same distributors and/or vendors may therefore be interested in the Cboe One Options Feed as they may easily incorporate aggregated or summarized Cboe Options Exchanges' data into their own products without themselves incurring the costs of the repackaging and aggregating the data it would receive by purchasing each market data product offered by the individual Cboe Options Exchanges separately. The Exchange therefore believes that by providing market data that encompasses combined data from affiliated exchanges, the Exchange enables vendors with the ability to compete in the provision of similar content with other vendors, where they may not have done so previously if they were required to purchase the top-of-book feeds from each individual Cboe options exchanges separately.

Although the Exchange considers the acceptance of the Cboe One Options Feed by distributors and vendors as important to the success of the product, depending on their needs, such distributors and vendors may choose not to subscribe to the Cboe One Options Feed and may rather receive the Cboe Options Exchanges' individual market data products and incorporate them into their specific market data products. The Cboe One Options Feed simply provides another option for distributors and vendors to choose from when selecting a product that meets their market data needs.

[24] For example, the combined external distribution fee for the individual data feeds of the Cboe Options Exchanges is $10,000 per month (*i.e.,* the monthly external distribution fee is $5,000 per month for the Cboe Options Top, $2,500 per month for C2 Options Top $2,000 per month for BZX Options Top, and $500 for EDGX Options Top). The combined monthly Professional User fee for the individual data feeds of the Cboe Options Exchanges is $30.50 per Professional User (*i.e.,* the monthly Professional User fee is $15.50 per Professional User for the Cboe Options Top, $5 per Professional User for C2 Options Top; $5 per Professional User for BZX Options Top, and $5 per Professional User for EDGX Options Top). The combined monthly Non-Professional User fee for the individual data feeds of the Cboe Options Exchanges is $0.60 per Non-Professional User (*i.e.,* the monthly Non-Professional User fee is $0.30 per Non-Professional User for Cboe Options Top, $0.10 per Non-Professional User for C2 Options Top, $0.10 per Non-Professional User for BZX Options Top, and $0.10 per Non-Professional User for EDGX Options Top).

[25] See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, at 37503 (June 29, 2005) (Regulation NMS Adopting Release).

Exchange Not the Exclusive Distributor of Cboe One Options Feed

Although the Cboe Options Exchanges are the exclusive distributors of the individual data feeds from which certain data elements would be taken to create the Cboe One Options Feed, the Exchange would not be the exclusive distributor of the aggregated and consolidated information that would compose the proposed Cboe One Options Feed. As discussed above, distributors and/or vendors would be able, if they chose, to create a data feed with the same information as the Cboe One Options Feed and distribute it to their clients on a level-playing field with respect to latency and cost as compared to the Exchange's proposed Cboe One Options Feed. The pricing the Exchange would charge for the Cboe One Options Feed would not be lower than the cost to a distributor or vendor to obtain the underlying data feeds. In addition, the pricing the Exchange would charge clients for the Cboe One Options Feed compared to the cost of the individual data feeds from the Cboe Options Exchanges would enable a distributor and/or vendor to receive the underlying data feeds and offer a similar product on a competitive basis and with no greater latency than the Exchange.

Latency

The Cboe One Options Feed is also not intended to compete with similar products offered by distributors. Rather, it is intended to assist them in incorporating aggregated and summarized data from the Cboe Options Exchanges into their own market data products that are provided to their customers. Therefore, distributors will receive the data, who will, in turn, make available Cboe One Options Feed to their end users, either separately or as incorporated into the various market data products they provide. As stated above distributors may prefer a product like the Cboe One Options Feed so that they may easily incorporate aggregated or summarized Cboe Options Exchange data into their own products without themselves incurring the administrative costs of repackaging and aggregating the data it would receive by subscribing to each market data product offered by the individual Cboe Options Exchanges.

Notwithstanding the above, the Exchange believes that vendors may create a product similar to Cboe One Options Feed based on the market data products offered by the individual Cboe Options Exchanges with no greater latency than the Exchange. As discussed above, in order to create the Cboe One Options Feed, the Exchange will receive the individual data feeds from each Cboe Options Exchange and, in turn, aggregate and summarize that data to create the Cboe One Options Feed. This is the same process a vendor would undergo should it create a market data product similar to the Cboe One Options Feed to distribute to its customers. In addition, the servers of most vendors could be located in the same facilities as the Exchange, and, therefore, should receive the individual data feed from each Cboe Options Exchange at the same time the Exchange would for it to create the Cboe One Options Feed.

The Exchange has designed the Cboe One Options data feed so that it would not have a competitive advantage over a vendor with respect to the speed of access to those underlying data feeds. Likewise, the Cboe One Options data feed would not have a speed advantage vis-à-vis vendors located in the same data center as the Exchange with respect to access to their customers, whether those end users are also located in the same data center or not. Therefore, the Exchange believes that it will not incur any potential latency advantage that will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Cost

With regard to cost, the Exchange will file a separate rule filing with the Commission to establish fees for Cboe One Options Feed that would be designed to ensure that vendors could compete with the Exchange by creating a similar product as the Cboe One Options Feed. The pricing the Exchange would charge clients for the Cboe One Options Feed compared to the cost of the individual data feeds from the Cboe Options Exchanges would enable a vendor to receive the underlying data feeds and offer a similar product on a competitive basis and with no greater latency than the Exchange. The Distribution and User (Professional and Non-Professional) fees that the Exchange proposes for the Cboe One Options Feed will be equal to the combined fees for subscribing to each individual data feed. Moreover, as discussed, the Exchange intends to propose a separate ''Data Consolidation Fee'', which would reflect the value of the aggregation and consolidation function the Exchange performs in creating the Cboe One Options Feed. Therefore, vendors would be enabled to create a competing product based on the individual data feeds and charge their clients a fee that they believes reflects the value of the aggregation and consolidation function that is competitive with Cboe One Options Feed pricing. For these reasons, the Exchange believes that vendors could readily offer a product similar to the Cboe One Options Feed on a competitive basis at a similar cost.

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 Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act [26] and Rule 19b–4(f)(6) [27] thereunder. Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [28] and Rule 19b–4(f)(6) [29] thereunder.

A proposed rule change filed under Rule 19b–4(f)(6) [30] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[31] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the Exchange can launch the proposed Cboe One Options Feed on March 1, 2023, which is the date the original filing (SR–CBOE–2023–009) would have been operative. The Commission notes that Nasdaq in its comment letter believed that ''the Cboe One Feed Proposal should clearly explain the obligations of the OPRA Plan by specifically noting that any person who subscribes to the Cboe One Feed must have equivalent access to OPRA and remove the misleading

[26] 15 U.S.C. 78s(b)(3)(A).

[27] 17 CFR 240.19b–4(f)(6).

[28] 15 U.S.C. 78s(b)(3)(A).

[29] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[30] 17 CFR 240.19b–4(f)(6).

[31] 17 CFR 240.19b–4(f)(6)(iii).

language identified'' by Nasdaq.[32] Nasdaq further requested that marketing materials for the Cboe One Options Feed clearly indicate this requirement to ensure compliance with the OPRA Plan.[33] The Commission believes that the Exchange has addressed the concerns raised by Nasdaq by removing the language Nasdaq found misleading and clarifying the obligations under the OPRA Plan. Specifically, the Exchange has represented that any person, including broker-dealers, who subscribe to the Cboe One Options Feed must also have equivalent access to consolidated Options Information from OPRA for the same classes or series of options that are included in the proprietary data feed, and proprietary data feeds cannot be used to meet that particular requirement.[34] The Commission notes that no other substantive changes from the Exchange's original filing are being made with this filing. Therefore, the Commission believes that waving the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission designates the proposed rule change to be operative on March 1, 2023.[35]

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–2023–012 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2023–012. 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–2023–012 and should be submitted on or before March 28, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[36]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–04582 Filed 3–6–23; 8:45 am]

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[32] *See* Letter from Greg Ferrari, Vice President, U.S. Options, Nasdaq, supra note 3, at 2.

[33] *Id.* at 2–3.

[34] *See supra* notes 20–21 and accompanying text. As discussed above, the Exchange has also represented that the requirement under the OPRA Plan is included in the Cboe Global Markets Global Data Agreement and Cboe Global Markets North American Data Policies, which subscribers to any exchange proprietary product must sign and are subject to, respectively. Additionally, the Exchange has represented that its Data Order Form (used for requesting the Exchange's market data products) requires confirmation that the requesting market participant receives data from OPRA. *See supra* note 20.

[35] For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[36] 17 CFR 200.30–3(a)(12), (59)

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–97010; File No. SR–NYSE–2023–14]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 7.19 Related to Pre-Trade Risk Controls

March 1, 2023.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that on February 23, 2023, New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 7.19 pertaining to pre-trade risk controls to make additional pre-trade risk controls available to Entering Firms. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 7.19 pertaining to pre-trade risk controls to make additional pre-trade risk controls available to Entering Firms. The Exchange's affiliates NYSE American LLC, NYSE Arca, Inc., NYSE Chicago, Inc., and NYSE National, Inc. (the ''Affiliate Exchanges'') recently filed to make similar changes and, in those filings, addressed several points raised in a comment letter submitted in connection with filings since withdrawn by the Affiliate Exchanges.[4] The instant filing also addresses those same points.

Background and Purpose

In 2020, in order to assist member organizations' efforts to manage their risk, the Exchange amended its rules to add Rule 7.19 (Pre-Trade Risk Controls),[5] which established a set of optional pre-trade risk controls by which Entering Firms and their designated Clearing Firms [6] could set credit limits and other pre-trade risk controls for an Entering Firm's trading on the Exchange and authorize the Exchange to take action if those credit limits or other pre-trade risk controls are exceeded. Specifically, the Exchange added a Gross Credit Risk Limit, a Single Order Maximum Notional Value Risk Limit, and a Single Order Maximum Quantity Risk Limit [7] (collectively, the ''2020 Risk Controls'').

The Exchange now proposes to expand the list of the optional pre-trade risk controls available to Entering Firms by adding several additional pre-trade risk controls that would provide Entering Firms with enhanced abilities to manage their risk with respect to orders on the Exchange. As detailed below, each of the proposed additional risk controls is modeled on risk settings that are already available on the Cboe,[8] Nasdaq,[9] MEMX,[10] and MIAX Pearl [11] equities exchanges.

Like the 2020 Risk Controls, use of the pre-trade risk controls proposed herein is optional, but all orders on the Exchange would pass through these risk checks. As such, an Entering Firm that does not choose to set limits pursuant to the new proposed pre-trade risk controls would not achieve any latency advantage with respect to its trading activity on the Exchange.

The HPR Letter questions why the Exchange proposes to make all orders on the Exchange pass through its risk checks, even if a particular firm trading on the Exchange opts not to employ the Exchange's pre-trade risk controls. The Exchange has chosen to implement its risk checks ''symmetrically'' to all orders because that is the functionality that clients have specifically requested, and it is also the recognized best practice in this area. In a September 2021 white paper entitled ''Market Lens: Exchange Best Practices for Reducing Operational Risk at Broker-Dealers,'' [12] Citadel Securities requested that exchanges assist firms in mitigating operational trading risk by instituting exchange-based risk controls, but expressly cautioned exchanges against segmenting orders into those that would pass through risk checks versus those that would not. Citadel noted that such segmentation of orders would ''produce incentives for all firms to avoid using any controls, for fear of suffering a competitive disadvantage.'' [13] Instead, Citadel recommended that exchanges ''ensure orders follow the same order processing logic regardless of which options or features are enabled,'' [14] in order to eliminate any competitive advantage or disadvantages for clients.

This is the model that the Exchange used in building the 2020 Risk Controls that the Commission approved in 2020,[15] and is the same model that the Exchange proposes would apply to the additional pre-trade risk checks proposed here. There is nothing unique about this approach. Functionality on the Exchange's trading systems is often applied uniformly to all orders, regardless of whether a particular client has opted to use that functionality for a particular order. For example, the Exchange's limit order price protection applies generally to trading on the Exchange and orders with limit prices are not processed more slowly than those without. Similarly, the Exchange's trading systems check all orders for a variety of details and modifiers (*e.g.,* duplicative client order check, order capacity check, and self-trade prevention).

The Exchange understands that the risk checks of other exchanges, on which the proposed rule is modeled, also apply symmetrically to all orders.[16]

[4] *See* Securities Exchange Release Act Nos. 96922 (February 14, 2023) (SR–NYSEAMER–2023–12); 96921 (February 14, 2023) (SR–NYSEArca–2023–13); 96920 (February 14, 2023) (SR–NYSECHX–2023–08); and 96919 (February 14, 2023) (SR–NYSENAT–2023–07. *See* Letter to Vanessa Countryman, Secretary, Securities and Exchange Commission, from Gerard P. O'Connor, Vice President and General Counsel of Hyannis Port Research, Inc. (''HPR Letter'') dated January 5, 2023, available at *https://www.sec.gov/comments/sr-nyseamer-2022-53/srnyseamer202253-20154615-322842.pdf.* HPR is a provider of (among other things) non-exchange based risk controls solutions.

[5] *See* Securities Exchange Act Release No. 88776 (April 29, 2020), 85 FR 26768 (May 5, 2020) (SR–NYSE–2020–17).

[6] The terms ''Entering Firm'' and ''Clearing Firm'' are defined in Rule 7.19.

[7] The terms ''Gross Credit Risk Limit,'' ''Single Order Maximum Notional Value Risk Limit, and ''Single Order Maximum Quantity Risk Limit'' are defined in Rule 7.19.

[8] *See* Securities Exchange Act Release Nos. 80611 (May 5, 2017), 82 FR 22045 (May 11, 2017) (SR–BatsBZX–2017–24) (adopting Rule 11.13, Interpretation and Policies .01); 80612 (May 5, 2017), 82 FR 22024 (May 11, 2017) (SR–BatsBYX–2017–07) (same); 80608 (May 5, 2017), 82 FR 22030 (May 11, 2017) (SR–BatsEDGA–2017–07) (adopting Rule 11.10, Interpretation and Policies .01); 80607 (May 5, 2017), 82 FR 22027 (May 11, 2017) (SR–BatsEDGX–2017–16) (same).

[9] *See, e.g.,* Securities Exchange Act Release Nos. 82479 (January 10, 2018), 83 FR 2471 (January 17, 2018) (SR–Nasdaq–2018–002) (adopting IM–6200–1); 90577 (December 7, 2020), 85 FR 80202 (December 11, 2020) (SR–Nasdaq–2020–79) (moving IM–6200–1 into Equity 6, Section 5). *See also* Securities Exchange Act Release Nos. 82545 (January 19, 2018), 83 FR 3834 (January 26, 2018) (SR–BX–2018–001) (adopting Rule 4765 and commentary thereto); 91830 (May 10, 2021), 86 FR 26567 (May 14, 2021) (SR–BX–2021–012) (moving Rule 4765 and commentary into Equity 6, Section 5).

[10] *See* Securities Exchange Act Release No. 89581 (August 17, 2020), 85 FR 51799 (August 21, 2020) (SR–MEMX–2020–04) (adopting Rule 11.10, Interpretation and Policies .01).

[11] *See* Securities Exchange Act Release Nos. 89563 (August 14, 2020), 85 FR 51510 (August 20, 2020) (SR–PEARL–2020–03) (adopting Rule 2618(a)(1)(A)–(D)); 96205 (November 1, 2022), 87 FR 67080 (November 7, 2022) (SR–PEARL–2022–43) (adopting subsections (E)–(H) to Rule 2618(a)(1)).

[12] *See* Citadel Securities, ''Market Lens: Exchange Best Practices for Reducing Operational Risk at Broker-Dealers'' (''Citadel white paper'') dated September 2021, available at *https://www.citadelsecurities.com/wp-content/uploads/sites/2/2021/09/Citadel_Securities_Market-Lens_Sept_2021_Exchange-Best-Practices-for-Reducing-Operational-Risk.pdf.* As Citadel put it (at page 5):

Insufficiently well-designed and tested controls can create what amount to penalties, driven by the time and computational power required to perform various stages of checks, if applied only to participants who opt-in to their use. This could produce incentives for all firms to avoid using any controls, for fear of suffering a competitive disadvantage. One way to address this, while maintaining choice for member firms, is to ensure orders follow the same order processing logic regardless of which options or features are enabled—similar to how all colocated servers in an equalized data center incur the same cabling distance to the matching engine, regardless of their physical proximity to it. Additionally, exchanges should vigorously test controls to ensure no latency penalty exists in practice. Exchanges should actively publicize the net-neutral risk controls.

[13] *Id.* at 5.

[14] *Id.*

[15] *See* Securities Exchange Act Release No. 88776 (April 29, 2020), 85 FR 26768 (May 5, 2020) (SR–NYSE–2020–17) (order approving the Exchange's pre-trade risk controls). The Commission concluded that ''the proposed rule change is reasonably designed to provide members with optional tools to manage their credit risk.'' *Id.* at 26770.

[16] *See, e.g.,* MEMX Risk FAQ, dated October 13, 2020, available at *https://info.memxtrading.com/us-equities-faq/#Bookmark21* (''The risk checks are applied in a consistent manner to all participant orders in order to mitigate risk without incurring

The Exchange also notes that the Citadel white paper cited above was written ''in collaboration with several major exchanges, including NYSE, Nasdaq, MIAX, MEMX, and BOX,'' suggesting that some or all of those exchanges may also employ the symmetrical application of risk checks that the Citadel white paper recommends.[17]

The Exchange expects that any latency added by the proposed additional pre-trade risk controls would be *de minimis.* Specifically, the Exchange expects that the latency added by the combination of the 2020 Risk Checks plus the proposed additional pre-trade risk controls would be significantly less than one microsecond. Nevertheless, seizing on the phrase ''*de minimis,*'' HPR argues that the Commission's 2016 interpretation regarding automated quotations under Regulation NMS [18] applies here and should require the Exchange to justify this *de minimis* latency change in a number of ways.[19] But that Commission interpretation pertains to ''intentional access delays,'' like speed bumps—not to the issues here. The Exchange's pre-trade risk controls are not an intentional access delay,[20] but a functional enhancement to the Exchange's trading systems, and, like any change to a trading system's function or performance, may impact the overall speed of trading on the Exchange in ways that can increase or decrease overall latency. It is within the Exchange's prerogative as a market center in the current hotly competitive environment to assess whether and when to make functional enhancements to its trading systems. What is key under the Exchange Act is that any anticipated latency effects of such enhancements are applied uniformly, to all orders of all market participants, in a non-discriminatory way—as the risk controls proposed here would be. If market participants find that the latency cost of such enhancements is not justified by the additional functionality they offer, such market participants will vote with their feet and send their order flow elsewhere.

With one exception, the additional risk checks proposed here would be a functional enhancement to the Exchange's Pillar gateway [21] and the risk checks would be applied to all orders on the Exchange. While the Exchange strongly believes that symmetrical application of all pre-trade risk controls is the appropriate approach (as explained above), providing customers an opt-out ability would require the Exchange to provide new order entry ports that would bypass the evaluation of such pre-trade risk protections. Providing such new ports would burden customers with additional costs to purchase such ports and to migrate their order flow to such ports. The Exchange does not believe that the added expense of creating such new ports (on the part of the Exchange) or of purchasing and migrating to them (on the part of customers) is justified in light of the *de minimis* latency imposed by the pre-trade risk controls at issue.

The proposed new pre-trade risk controls proposed herein would be available to be set by Entering Firms only. Clearing Firms designated by an Entering Firm would continue to be able to view all pre-trade risk controls set by the Entering Firm and to set the 2020 Risk Controls on the Entering Firm's behalf. In addition, as specified below, several of the proposed additional Pre-Trade Risk Controls would not be immediately available to Floor brokers. The Exchange is in the process of updating its technology to allow Floor brokers to connect to the Exchange via Pillar gateways. Because the Exchange anticipates that Floor brokers will transition to Pillar gateways in 2023, the Exchange did not add the proposed new Pre-Trade Risk Controls to legacy gateways that will be decommissioned. Once that transition is underway, the Exchange will file a proposed rule change to extend such risk checks to Floor brokers.

Proposed Amendment to Rule 7.19

To accomplish this rule change, the Exchange proposes to amend paragraph (a) to include a new paragraph (a)(3) that would define the term ''Pre-Trade Risk Controls'' as all of the risk controls listed in proposed paragraph (b), inclusive of the 2020 Risk Controls and the proposed new risk controls.

In proposed paragraph (b), the Exchange proposes to list all Pre-Trade Risk Controls available to Entering Firms, which would include the existing 2020 Risk Controls and the proposed new controls. The Exchange proposes to move the definition of Gross Credit Risk Limit from current paragraph (a)(5) to proposed paragraph (b)(1), with no substantive change. Next, the Exchange proposes to add paragraph (b)(2), which would list all available ''Single Order Risk Controls.'' The Exchange proposes to move the definitions of Single Order Maximum Notional Value Risk Limit and Single Order Maximum Quantity Risk Limit from current paragraphs (a)(3) and (a)(4) to proposed paragraph (b)(2)(A), with no substantive change. Next, the Exchange proposes to add paragraphs (b)(2)(B) through (b)(2)(F) to enumerate the proposed new Single Order Risk Controls, as follows:

(B) controls related to the price of an order (including percentage-based and dollar-based controls);

(C) controls related to the order types or modifiers that can be utilized;

(D) controls to restrict the types of securities transacted (including but not limited to restricted securities);

(E) controls to prohibit duplicative orders; and

(F) controls related to the size of an order as compared to the average daily volume of the security (including the ability to specify the minimum average daily volume for the securities for which such controls will be activated).

Each of the Single Order Risk Controls in proposed paragraph (b)(2) is substantively identical to risk settings available on the Cboe, Nasdaq, MEMX, and MIAX Pearl [22] equities exchanges. As such, the proposed new Pre-Trade Risk Controls are familiar to market participants and are not novel.

The Exchange proposes to move current paragraph (b)(2) to proposed paragraph (c) and to re-name that paragraph ''Pre-Trade Risk Controls Available to Clearing Firms.'' The Exchange proposes to renumber current paragraphs (b)(2)(A), (b)(2)(B), and (b)(2)(C) as paragraphs (c)(1), (c)(2), and (c)(3) accordingly. The Exchange proposes to smooth the grammar in proposed paragraph (c)(1) by moving the ''or both'' language from the end of the sentence to the beginning, to clarify that

latency disadvantage.''); MIAX Pearl Equities Exchange User Manual, updated October 2022, available at *https://www.miaxequities.com/sites/default/files/website_file-files/MIAX_Pearl_Equities_User_Manual_October_2022.pdf,* at 29 (stating that all but two of the exchange's 14 risk checks ''are latency equalized, *i.e.,* there is no latency penalty for a member when opting into and leveraging a risk protection available on the exchange when entering an order as compared to a member not opting into the risk protection when entering an order'').

[17] *See* Citadel white paper, *supra* note 12, at 2.

[18] *See also* Securities Exchange Act Release No. 78102 (June 17, 2016), 81 FR 40785 (June 23, 2016) (File No. S7–03–16) (Commission Interpretation Regarding Automated Quotations Under Regulation NMS), available at *https://www.sec.gov/rules/interp/2016/34-78102.pdf.*

[19] HPR Letter, *supra* note 4, at 5–6.

[20] Indeed, the Commission did not treat any of the other exchanges' filings for pre-trade risk controls listed in *supra* notes 8–11 as ''intentional access delays.''

[21] The one exception is the proposed pre-trade risk control in paragraph (b)(2)(B), discussed below, which would permit an Entering Firm to set dollar-based or percentage-based controls as to the price of an order that are equal to or more restrictive than the levels set out in Rule 7.31(a)(2)(B) regarding Limit Order Price Protection. This risk check, like the Exchange's Limit Order Price Protection, is implemented in the matching engine.

[22] *See supra* notes 8–11.

an Entering Firm that does not self-clear may designate its Clearing Firm to take either or both of the following actions: viewing or setting Pre-Trade Risk Controls on the Entering Firm's behalf. Finally, in proposed paragraph (c)(1)(B), the Exchange proposes to specify that Clearing Firms so-designated may only set the 2020 Risk Controls on an Entering Firm's behalf; the proposed new risk controls set out in proposed paragraph (b)(2)(B) through (b)(2)(F) are available to be set by Entering Firms only. The Exchange does not propose any changes to proposed paragraph (c)(2), and with respect to proposed paragraph (c)(3), proposes only to update internal cross-references.

The Exchange proposes to move current paragraph (b)(3) regarding ''Setting and Adjusting Pre-Trade Risk Controls'' to proposed paragraph (d), and to renumber current paragraphs (b)(3)(A) and (b)(3)(B) as proposed paragraphs (d)(1) and (d)(2) accordingly. The Exchange proposes to amend the text of proposed paragraph (d)(2) to state that in addition to Pre-Trade Risk Controls being available to be set at the MPID level or at one or more sub-IDs associated with that MPID, or both, Pre-Trade Risk Controls related to the short selling of securities, transacting in restricted securities, and the size of an order compared to the average daily volume of a security must be set per symbol.

The Exchange proposes to move current paragraph (b)(4) regarding ''Notifications'' to paragraph (e), with no changes.

The Exchange proposes to move current paragraph (c) regarding ''Automated Breach Actions'' to proposed paragraph (f) and to renumber current paragraphs (c)(1), (c)(2), (c)(3), and (c)(4) as paragraphs (f)(1), (f)(2), (f)(3), and (f)(4) accordingly. The Exchange proposes no changes to the text of proposed paragraphs (f)(1), (f)(3), or (f)(4), other than to update an internal cross-reference. With respect to proposed paragraph (f)(2) regarding ''Breach Action for Single Order Risk Limits,'' the Exchange proposes to change the word ''Limits'' in the heading to ''Controls.'' The Exchange further proposes to amend the text of current paragraph (c)(2) to specify in paragraph (f)(2)(A) that if an order would breach a price control under paragraph (b)(2)(B), it would be rejected or canceled as specified in Rule 7.31(a)(2)(B) (the ''Limit Order Price Protection Rule''), while providing in paragraph (f)(2)(B) that an order that breaches the designated limit of any other Single Order Risk Control would be rejected.

The Exchange proposes to move current paragraph (d) regarding ''Reinstatement of Entering Firm After Automated Breach Action'' to proposed paragraph (g), with no changes.

The Exchange proposes to move current paragraph (e) regarding ''Kill Switch Actions'' to proposed paragraph (h) with no changes, other than to update an internal cross-reference.

The Exchange proposes no changes to Commentary .01. The Exchange proposes to add a new Commentary .02 to specify the interplay between the Exchange's Limit Order Price Protection Rule and the price controls that may be set by an Entering Firm pursuant to proposed paragraph (b)(2)(B). Proposed Commentary .02 specifies that pursuant to paragraph (b)(2)(B), an Entering Firm may always set dollar-based or percentage-based controls as to the price of an order that are equal to or more restrictive than the levels set out in Rule 7.31(a)(2)(B) regarding Limit Order Price Protection (*e.g.,* the greater of $0.15 or 10% (for securities with a reference price up to and including $25.00), 5% (for securities with a reference price of greater than $25.00 and up to and including $50.00), or 3% (for securities with a reference price greater than $50.00) away from the NBB or NBO). However, an Entering Firm may set price controls under paragraph (b)(2)(B) that are less restrictive than the levels in the Limit Order Price Protection Rule only (i) outside of Core Trading Hours or (ii) with respect to LOC Orders or Closing IO Orders.

The Exchange proposes to add a new Commentary .03 titled ''Floor Brokers'' to specify how the Pre-Trade Risk Controls apply to Floor brokers. The Exchange proposes to move the text of current Commentary .02 into a new paragraph (a) of Commentary .03, with the following proposed alterations. The Exchange proposes to provide additional specificity to the text to state that ''either the Customer or the Floor broker firm'' (instead of ''both the Customer and the Floor broker firm'') may be considered an Entering Firm for the purpose of the Pre-Trade Risk Controls in proposed paragraphs (b)(1) and (b)(2)(A). The Exchange further proposes to add additional text to paragraph (a) of Commentary .03 to specify that the Pre-Trade Risk Controls described in paragraphs (b)(2)(B) through (b)(2)(F) will not initially be available to Floor brokers and that the Exchange will file a proposed rule change when such Pre-Trade Risk Controls become available to Floor brokers.

The Exchange proposes to move the text of current Commentary .03, regarding manual transactions by a Floor broker and crossing transactions pursuant to Rule 76, into a new paragraph (b) of Commentary .03, without change.

The Exchange proposes to amend Commentary .04 to insert the title ''DMMs'' and to move the current text of Commentary .04 into a new paragraph (a) of Commentary .04, without change, except that the Exchange proposes to update the current cross-reference to Rule 7.35(a)(8) to now cross-reference Rule 7.35(a)(9). The Exchange further proposes to add new paragraph (b) of Commentary .04 to specify that manually entered DMM Interest as defined in Rule 7.35(a)(9) will be excluded from the Pre-Trade Risk Controls in paragraphs (b)(2)(C) through (b)(2)(F).

Continuing Obligations of Member Organizations Under Rule 15c3–5

The proposed Pre-Trade Risk Controls described here are meant to supplement, and not replace, the member organizations' own internal systems, monitoring, and procedures related to risk management. The Exchange does not guarantee that these controls will be sufficiently comprehensive to meet all of a member organization's needs, the controls are not designed to be the sole means of risk management, and using these controls will not necessarily meet a member organization's obligations required by Exchange or federal rules (including, without limitation, the Rule 15c3–5 under the Act[23] (''Rule 15c3–5'')). Use of the Exchange's Pre-Trade Risk Controls will not automatically constitute compliance with Exchange or federal rules and responsibility for compliance with all Exchange and SEC rules remains with the member organization.[24]

Timing and Implementation

The Exchange anticipates completing the technological changes necessary to implement the proposed rule change in the first quarter of 2023, but in any event no later than April 30, 2023. The Exchange anticipates announcing the availability of the Pre-Trade Risk Controls introduced in this filing by Trader Update in the first quarter of 2023.

[23] *See* 17 CFR 240.15c3–5.

[24] *See also* Commentary .01 to Rule 7.19, which provides that ''[t]he pre-trade risk controls described in this Rule are meant to supplement, and not replace, the member organization's own internal systems, monitoring and procedures related to risk management and are not designed for compliance with Rule 15c3–5 under the Exchange Act. Responsibility for compliance with all Exchange and SEC rules remains with the member organization.''

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[25] in general, and furthers the objectives of Section 6(b)(5) of the Act,[26] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in 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 because it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.[27]

Specifically, the Exchange believes that the proposed rule change will remove impediments to and perfect the mechanism of a free and open market and a national market system because the proposed additional Pre-Trade Risk Controls would provide Entering Firms with enhanced abilities to manage their risk with respect to orders on the Exchange. The proposed additional Pre-Trade Risk Controls are not novel; they are based on existing risk settings already in place on the Cboe, Nasdaq, MEMX, and MIAX Pearl equities exchanges [28] and market participants are already familiar with the types of protections that the proposed risk controls afford. As such, the Exchange believes that the proposed additional Pre-Trade Risk Controls would provide a means to address potentially market-impacting events, helping to ensure the proper functioning of the market.

In addition, the Exchange believes that the proposed rule change will protect investors and the public interest because the proposed additional Pre-Trade Risk Controls are a form of impact mitigation that will aid Entering Firms in minimizing their risk exposure and reduce the potential for disruptive, market-wide events. The Exchange understands that member organizations implement a number of different risk-based controls, including those required by Rule 15c3–5. The controls proposed here will serve as an additional tool for Entering Firms to assist them in identifying any risk exposure. The Exchange believes the proposed additional Pre-Trade Risk Controls will assist Entering Firms in managing their financial exposure which, in turn, could enhance the integrity of trading on the securities markets and help to assure the stability of the financial system.

The Exchange believes that the proposed rule change will remove impediments to and perfect the mechanism of a free and open market and a national market system by permitting Entering Firms to set price controls under paragraph (b)(2)(B) that are equal to or more restrictive than the levels in the Exchange's Limit Order Price Protection Rule, but preventing Entering Firms from setting price controls that are less restrictive than those levels during Core Trading Hours in most circumstances. The Exchange's Limit Order Price Protection Rule protects from aberrant trades, thus improving continuous trading and price discovery. The Exchange believes that Entering Firms should not be able to circumvent the protections of that rule by setting lower levels during Core Trading Hours, except with respect to orders that participate in the Closing Auction (*e.g.,* LOC and Closing IO Orders).[29] But under the proposed rule, Entering Firms seeking to further manage their exposure to aberrant trades would be permitted to set price controls at levels that are more restrictive than in the Exchange's Limit Order Price Protection Rule. Additionally, because price controls set by an Entering Firm under paragraph (b)(2)(B) would function as a form of limit order price protection, the Exchange believes that it would remove impediments to and perfect the mechanism of a free and open market and a national market system for an order that would breach such a price control to be rejected or canceled as specified in the Limit Order Price Protection Rule.

Finally, the Exchange believes that the proposed rule change does not unfairly discriminate among the Exchange's member organizations because use of the proposed additional Pre-Trade Risk Controls is optional and is not a prerequisite for participation on the Exchange. In addition, because all orders on the Exchange would pass through the risk checks, there would be no difference in the latency experienced by member organizations who have opted to use the proposed additional Pre-Trade Risk Controls versus those who have not opted to use them. The Exchange does not believe it is unfairly discriminatory to have all orders on the Exchange pass through the risk checks, even for member organizations that opt not to use the Exchange's pre-trade risk controls. As described above, the proposed risk checks are a functional enhancement to the Exchange's trading systems that the Exchange proposes to apply uniformly to all orders on the Exchange; by applying them uniformly, the Exchange would avoid producing incentives for all firms to avoid using the risk controls for fear of suffering a competitive disadvantage. Additionally, any latency imposed by the pre-trade risk controls proposed here is *de minimis* and would not have a material impact on the order flow of member organizations that choose to employ non-exchange providers (such as HPR) to provide them with risk control solutions.

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. In fact, the Exchange believes that the proposal will have a positive effect on competition because, by providing Entering Firms additional means to monitor and control risk, the proposed rule will increase confidence in the proper functioning of the markets. The Exchange believes the proposed additional Pre-Trade Risk Controls will assist Entering Firms in managing their financial exposure which, in turn, could enhance the integrity of trading on the securities markets and help to assure the stability of the financial system. As a result, the level of competition should increase as public confidence in the markets is solidified.

In its letter, HPR contends that it is an unnecessary burden on competition for the Exchange to have all orders—even the orders of member organizations that choose not to use the proposed pre-trade risk controls—to pass through the Exchange's checks because doing so will reduce customer demand for HPR's risk control services. HPR argues that by imposing latency from its risk checks on all orders, the Exchange has created a ''latency tax'' that would encourage customers to use the Exchange's risk controls instead of third-party risk

[25] 15 U.S.C. 78f(b).

[26] 15 U.S.C. 78f(b)(5).

[27] HPR argues that the Exchange should be compelled to submit this proposal as a fee filing pursuant to Section 19(b)(3)(A)(ii) of the Exchange Act. *See* HPR Letter, *supra* note 4, at 6–8. But that provision only applies to rule filings ''establishing or charging a due, fee, or other charge imposed by the [SRO] . . . .'' Because the Exchange does not propose to charge any fees for the proposed services here, Section 19(b)(3)(A)(ii) is inapplicable. Notably, the Commission did not treat any of the other exchanges' filings for pre-trade risk controls listed in *supra* notes 8–11 as fee filings.

[28] *See supra* notes 8–11.

[29] LOC Orders and Closing IO orders are not subject to the Limit Order Price Protection in Rule 7.31(a)(2)(B).

solutions like HPR's.[30] These assertions are factually incorrect and obscure the very real differences between the Exchange's pre-trade risk controls and the services that HPR offers. The Exchange understands that HPR's enterprise risk management solutions, like those of its competitors, permit its clients to track aggregated risk across all markets and provide consolidated risk management capabilities. In contrast, exchange based-solutions such as the Exchange's only offer tools to manage risk across the Exchanges and its affiliate exchanges (*e.g.,* the NYSE Group exchanges). The Exchange's proposed risk checks would not and could not replace HPR's far broader offering. In addition, as the Exchange made clear in its filing for the 2020 Risk Controls and repeats here, the Exchange's pre-trade risk controls are not a complete Rule 15c3–5 solution. The Exchange's risk controls are meant to supplement, and not replace, a member organization's own internal risk management systems (which firms may outsource to providers like HPR), and the Exchange's controls are not designed to be the sole means of risk management that any firm uses. Additionally, any latency imposed by the Pre-Trade Risk Controls proposed here is *de minimis* and would not have a material impact on the order flow of member organizations that choose to employ non-exchange providers (such as HPR) to provide them with risk control solutions.

Finally, the Exchange believes it would be an unfair burden on competition for the Commission to suspend and ultimately disapprove the pre-trade risk controls proposed here, where substantially identical controls are already in place on numerous of the Exchange's competitor exchanges.[31] Since 2017, equities exchanges have been adding pre-trade risk controls to their trading systems. It would be an unjustifiable burden on competition and on the Exchange for the Commission to permit all equities exchanges to offer such functionality *except* for the Exchange and its affiliates. Specifically, the Exchange would be at a significant competitive disadvantage vis-à-vis other equities exchanges that already offer the type of pre-trade risk controls proposed in this filing as member organizations may choose to direct order flow away from the Exchange until it is able to offer such competing pre-trade risk controls.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[32] and Rule 19b–4(f)(6) thereunder.[33] Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act[34] and subparagraph (f)(6) of Rule 19b–4 thereunder.[35]

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)[36] 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–NYSE–2023–14 on the subject line.

Paper Comments

- Send paper comments in triplicate to: Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2023–14. 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–NYSE–2023–14 and should be submitted on or before March 28, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[37]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–04565 Filed 3–6–23; 8:45 am]

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[30] *See* HPR Letter, *supra* note 4, at 4 (claiming the Exchange has ''architected the proposed risk controls to give [itself] an unfair and anti-competitive latency advantage over non-exchange offerings provided by broker-dealers or vendors such as HPR.'').

[31] *See supra* notes 8–11.

[32] 15 U.S.C. 78s(b)(3)(A)(iii).

[33] 17 CFR 240.19b–4(f)(6).

[34] 15 U.S.C. 78s(b)(3)(A)(iii).

[35] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[36] 15 U.S.C. 78s(b)(2)(B).

[37] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–794, OMB Control No. 3235–0737]

Proposed Collection; Comment Request; Extension: Rule 22e–4

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Notice is hereby given that, under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), the Securities and Exchange Commission (''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Section 22(e) of the Investment Company Act of 1940 (''Investment Company Act'') provides that no registered investment company shall suspend the right of redemption or postpone the date of payment of redemption proceeds for more than seven days after tender of the security absent specified unusual circumstances. The provision was designed to prevent funds and their investment advisers from interfering with the redemption rights of shareholders for improper purposes, such as the preservation of management fees. Although section 22(e) permits funds to postpone the date of payment or satisfaction upon redemption for up to seven days, it does not permit funds to suspend the right of redemption for any amount of time, absent certain specified circumstances or a Commission order.

Rule 22e–4 under the Act [17 CFR 270.22e–4] requires an open-end fund and an exchange-traded fund that redeems in kind (''In-Kind ETF'') to establish a written liquidity risk management program that is reasonably designed to assess and manage the fund's or In-Kind ETF's liquidity risk. This program includes policies and procedures that incorporate certain program elements, including: (i) for funds and In-Kind ETFs, the assessment, management, and periodic review of liquidity risk (with such review occurring no less frequently than annually); (ii) for funds, the classification of the liquidity of a fund's portfolio investments, as well as at-least-monthly reviews of the fund's liquidity classifications; (iii) for funds that do not primarily hold assets that are highly liquid investments, the determination of and periodic review of the fund's highly liquid investment minimum and establishment of policies and procedures for responding to a shortfall of the fund's highly liquid investment minimum, which includes reporting to the fund's board of directors; (iv) for funds and In-Kind ETFs, the limitation of the fund's or In-Kind ETF's investment in illiquid investments that are assets to no more than 15% of the fund's or In-Kind ETF's net assets; and (iv) for funds and In-Kind ETFs, the establishment of policies and procedures regarding redemptions in kind, to the extent that the fund engages in or reserves the right to engage in redemptions in kind. The rule also requires board approval and oversight of a fund's or In-Kind ETF's liquidity risk management program and recordkeeping.

Rule 22e–4 also requires a limited liquidity review, under which an unit investment trust's (''UIT'') principal underwriter or depositor determines, on or before the date of the initial deposit of portfolio securities into the UIT, that the portion of the illiquid investments that the UIT holds or will hold at the date of deposit that are assets is consistent with the redeemable nature of the securities it issues and retains a record of such determination for the life of the UIT and for five years thereafter.

The requirements under rule 22e–4 that a fund and In-Kind ETF, as applicable, adopt a written liquidity risk management program, report to the board, maintain a written record of how the highly liquid investment minimum was determined and written policies and procedures for responding to a shortfall of the fund's highly liquid investment minimum, which includes reporting to the fund's board of directors (for funds that do not primarily hold highly liquid investments), establish written policies and procedures regarding how the fund will engage in redemptions in kind, and retain certain other records are all collections of information. In addition, the requirement under rule 22e–4 that the principal underwriter or depositor of a UIT assess the liquidity of the UIT on or before the date of the initial deposit of portfolio securities into the UIT and retain a record of such determination for the life of the UIT, and for five years thereafter, is also a collection of information.

The Commission staff estimates that 11,659 funds, 603 newly-registered funds, and 8 UITs are subject to rule 22e–4. The internal annual burden estimate is 16 hours for a fund, 11 for a newly-registered fund, and 8 hours for an UIT. Based on these estimates, the total annual burden hours associated with the rule is estimated to be 193,241 hours. The estimated burden hours associated with rule 22e–4 have increased by 165,091 hours from the current allocation of 28,150 hours. This increase is due to an increase in the estimated number of affected entities, as well as revisions in the manner of calculation. The external cost associated with this collection of information is approximately $3,124 per fund and $2,000 per newly-registered fund, and the total annual external cost burden is $37,628,716. The estimated external cost has increased by $37,628,716 from the current estimate of $0. This increase is due to the staff's determination to revise the manner in which it calculates these estimates.

The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act, and is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules. The collection of information required by rule 22e–4 is necessary to obtain the benefits of the rule. Information regarding a fund's monthly position-level liquidity classification and its highly liquid investment minimum reported on Form N–PORT will be kept confidential. Other information provided to the Commission in connection with staff examinations or investigations is kept confidential subject to the provisions of applicable law. If information collected pursuant to rule 22e–4 is reviewed by the Commission's examination staff, it is accorded the same level of confidentiality accorded to other responses provided to the Commission in the context of its examination and oversight program. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Written comments are invited on: (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 estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information 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 by May 8, 2023.

An agency may not conduct or sponsor, and a person is not required to

respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

Please direct your written comments to: David Bottom, Acting Director/Chief Information Officer, Securities and Exchange Commission, c/o John Pezzullo, 100 F Street NE, Washington, DC 20549 or send an email to: *PRA_Mailbox@sec.gov*.

Dated: March 2, 2023.

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–04627 Filed 3–6–23; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–259, OMB Control No. 3235–0269]

Proposed Collection; Comment Request; Extension: Rule 17f–5

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 350l–3520), the Securities and Exchange Commission (''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit the existing collection of information to the Office of Management and Budget for extension and approval.

Rule 17f–5 (17 CFR 270.17f–5) under the Investment Company Act of 1940 [15 U.S.C. 80a] (the ''Act'') governs the custody of the assets of registered management investment companies (''funds'') with custodians outside the United States. Under rule 17f–5, a fund or its foreign custody manager (as delegated by the fund's board) may maintain the fund's foreign assets in the care of an eligible fund custodian under certain conditions. If the fund's board delegates to a foreign custody manager authority to place foreign assets, the fund's board must find that it is reasonable to rely on each delegate the board selects to act as the fund's foreign custody manager. The delegate must agree to provide written reports that notify the board when the fund's assets are placed with a foreign custodian and when any material change occurs in the fund's custody arrangements. The delegate must agree to exercise reasonable care, prudence, and diligence, or to adhere to a higher standard of care, in performing the delegated services. When the foreign custody manager selects an eligible foreign custodian, it must determine that the fund's assets will be subject to reasonable care if maintained with that custodian, and that the written contract that governs each custody arrangement will provide reasonable care for fund assets. The contract must contain certain specified provisions or others that provide at least equivalent care. The foreign custody manager must establish a system to monitor the performance of the contract and the appropriateness of continuing to maintain assets with the eligible foreign custodian.

The collection of information requirements in rule 17f–5 are intended to provide protection for fund assets maintained with a foreign bank custodian whose use is not authorized by statutory provisions that govern fund custody arrangements,[1] and that is not subject to regulation and examination by U.S. regulators. The requirement that the fund board determine that it is reasonable to rely on each delegate is intended to ensure that the board carefully considers each delegate's qualifications to perform its responsibilities. The requirement that the delegate provide written reports to the board is intended to ensure that the delegate notifies the board of important developments concerning custody arrangements so that the board may exercise effective oversight. The requirement that the delegate agree to exercise reasonable care is intended to provide assurances to the fund that the delegate will properly perform its duties.

The requirements that the foreign custody manager determine that fund assets will be subject to reasonable care with the eligible foreign custodian and under the custody contract, and that each contract contain specified provisions or equivalent provisions, are intended to ensure that the delegate has evaluated the level of care provided by the custodian, that it weighs the adequacy of contractual provisions, and that fund assets are protected by minimal contractual safeguards. The requirement that the foreign custody manager establish a monitoring system is intended to ensure that the manager periodically reviews each custody arrangement and takes appropriate action if developing custody risks may threaten fund assets.[2]

Commission staff estimates that each year, approximately 62 registrants [3] could be required to make an average of one response per registrant under rule 17f–5. A ''response'' may involve the fund's directors making certain findings concerning foreign custody managers, and the review and ratification of custodial contracts. Commission staff estimates a response relating to these matters will require approximately 2.5 hours of board of director time per response, to make the necessary findings concerning foreign custody managers, and 1 hour of related compliance attorney time per response, to assist the fund board.[4] For registrants, the total annual burden associated with these requirements of the rule is up to approximately 217 hours (62 responses × 3.5 hours per response).

Foreign custody managers are also affected by the collection of information requirements under rule 17f–5. Commission staff estimate that, in connection with each registrant's board of directors making certain findings concerning a foreign custody manager, those findings will require approximately 20 hours of trust administrator time from the applicable manager. This burden relates to the foreign custody manager's initial considerations regarding custodial arrangements with the registrant and preparing reports to the fund board.[5] Commission staff further estimate that annually, approximately 15 foreign custody managers will be required to make an average of 4 responses per manager concerning the use of foreign custodians other than depositories.[6] This ''response'' may involve the foreign custody manager establishing bank custody arrangements, negotiating/renegotiating custodial contracts, preparing reports to fund boards, and

[1] *See* section 17(f) of the Act. 15 U.S.C. 80a–17(f).

[2] The staff believes that subcustodian monitoring does not involve ''collection of information'' within the meaning of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) (''Paperwork Reduction Act'').

[3] This figure is an estimate of the number of new management investment company registrants each year, based on data reported on Form N–CEN as of December 2019, 2020, and 2021. Commission staff anticipates that the number of existing registrants that change their foreign custody managers is negligible and, therefore, the compliance burden of rule 17f–5 falls primarily on new registrants. In practice, not all registrants will use foreign custody managers. The actual figure therefore may be smaller.

[4] As discussed below, Commission staff estimate that a response from a registrant will also include a related burden for the applicable foreign custody manager chosen by the registrant's board of directors.

[5] This estimate does not include burden hours related to the establishment and/or amendment of the foreign custody manager's system for monitoring custody arrangements for its clients, which is accounted for separately as discussed below.

[6] This figure is based on the staff's estimate of the number of global custodians that may act as foreign custody managers under rule 17f–5.

establishing and/or amending the foreign custody manager's system for monitoring custody arrangements for its clients. The staff estimates that each response will take approximately 250 hours of trust administrator time, requiring approximately 1,000 total hours annually per foreign custody manager (4 responses per foreign custody manager × 250 hours per response). Thus, the total annual burden for foreign custody managers associated with the requirements of the rule is approximately 16,240 hours ((62 responses by foreign custody managers × 20 hours per response) + (15 foreign custody managers × 4 responses per manager) × 250 hours per response).

Therefore, the total annual burden of all collection of information requirements of rule 17f–5 is estimated to be up to 16,457 hours (217 hours + 16,240 hours). The total monetized annual cost of burden hours is estimated to be $5,166,833 ((217 hours × $3,529/hour blended wage rate) + (16,240 hours × $271/hour for a trust administrator's time)).[7] Compliance with the collection of information requirements of the rule is necessary to obtain the benefit of relying on the rule's permission for funds to maintain their assets with foreign custodians.

The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act. The estimate is not derived from a comprehensive or representative survey or study of the costs of Commission rules and forms.

Written comments are invited on: (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 estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information 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 by May 8, 2023.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

Please direct your written comments to: David Bottom, Acting Director/Chief Information Officer, Securities and Exchange Commission, c/o John Pezzullo, 100 F Street NE, Washington, DC 20549 or send an email to: *PRA_Mailbox@sec.gov*.

Dated: March 2, 2023.

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–04626 Filed 3–6–23; 8:45 am]

BILLING CODE 8011–01–P

[7] The rates used to create the blended rate are as follow: board of director time −$4,770 and compliance attorney time −$425. Staff estimates concerning wage rates for the cost of board of director time are based on fund industry representations. Based on fund industry representations, the staff estimated in 2014 that the average cost of board of director time, for the board as a whole, was $4,000 per hour. Adjusting for inflation, the staff estimates that the current average cost of board of director time is approximately $4,770 per hour. Estimates concerning wage rates for compliance attorneys and trust administrators are based on salary information for the securities industry compiled by the Securities Industry and Financial Markets Association and modified by Commission staff for 2023. The compliance attorney and trust administrator wage figures are based on published rates for each, modified to account for a 1800-hour work-year and inflation, and multiplied by 5.35 to account for bonuses, firm size, employee benefits and overhead. *See* Securities Industry and Financial Markets Association, Report on Management & Professional Earnings in the Securities Industry 2013.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–97009; File No. SR–DTC–2023–002]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Modify the Operational Arrangements

March 1, 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 February 17, 2023, The Depository Trust Company (''DTC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the clearing agency. DTC filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(4) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(4).

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change[5] consists of modifications to the DTC Operational Arrangements (Necessary for Securities to Become and Remain Eligible for DTC Services) (''OA'')[6] to add to its existing Legal Notice System (''LENS'') a means of receiving certain index reference rate information for posting to LENS. Specifically, the proposal would provide a Web-based, centralized process to facilitate the receipt and posting of LENS notice information, for Participants, on benchmark replacement rates and related details[7] (''replacement rate information'') from issuers, trustees and agents of Securities that are currently benchmarked to the London Inter-Bank Offered Rate (''LIBOR'') index,[8] as described in greater detail below.

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the clearing agency 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

[5] Each capitalized term not otherwise defined herein has its respective meaning as set forth the Rules, By-Laws and Organization Certificate of DTC (the ''Rules''), *available at http://www.dtcc.com/legal/rules-and-procedures.aspx.*

[6] *Available at http://www.dtcc.com/~/media/Files/Downloads/legal/issue-eligibility/eligibility/operational-arrangements.pdf.* The OA is a Procedure of DTC. Pursuant to the Rules, the term ''Procedures'' means the Procedures, service guides, and regulations of DTC adopted pursuant to Rule 27, as amended from time to time. *See* Rule 1, Section 1, *supra* note 5. They are binding on DTC and each Participant in the same manner that they are bound by the Rules. *See* Rule 27, *supra* note 5.

[7] Details related to the replacement rate include, but are not be limited to, (i) the replacement rate selected; (ii) identifying information for the issue, such as the CUSIP number; (iii) whether the replacement rate information being submitted is new or an update to a prior LENS submission; and (iv) identifying details relating to the submitter of the replacement rate information, including name and entity type (*e.g.,* paying agent, trustee, issuer, etc.). *See also* DTCC LIBOR Replacement Index Communication Tool User Guide, *available at https://www.dtcc.com/-/media/Files/Downloads/Settlement-Asset-Services/Issuer-Services/Libor-Tool-User-Guide.pdf.*

[8] LIBOR is an indicative measure of the average interest rate at which major global banks can borrow from one another. LIBOR is quoted in multiple currencies and multiple terms, or ''maturities,'' using data reported by private-sector banks. *See* SEC Staff Statement on LIBOR Transition—Key Considerations for Market Participants (December 7, 2021), Staff of the Securities and Exchange Commission, *available at https://www.sec.gov/news/statement/staff-statement-libor-transition-20211207.*

clearing agency has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The proposed rule change consists of modifications to the OA to add to LENS a means of receiving certain index reference rate information for posting to LENS. Specifically, the proposal would provide a Web-based, centralized process to facilitate the receipt and posting of LENS notice information, for Participants, on replacement rate information from issuers, trustees and agents of Securities that are currently benchmarked to the LIBOR index.

Background

LENS

A LENS notice is a notice of information provided to DTC often by an issuer, trustee, transfer agent, or other third party that is intend for holders of Securities on deposit at DTC. Parties submitting LENS notices may have a legal or regulatory obligation or other interest in distributing the notice information to holders of the Securities. The notices are delivered to DTC because DTC's nominee, Cede & Co., is the registered holder of the applicable Securities and/or DTC is the appropriate qualified registered securities depository [9] with respect to the issue.

LENS notices are generally delivered to DTC via email.[10] If a notice is delivered to DTC in accordance with applicable Procedures set forth in the OA, DTC then posts the notice to LENS, where notices are then available for viewing by Participants.[11] A Participant may share the notices with their customers that may hold a beneficial interest in the subject Security on the books of the Participant.

Proposed Expansion of LENS

DTC understands that issuers of Securities that currently use LIBOR (USD) as a reference rate will need to choose a replacement benchmark and disseminate information on replacement rates to holders ahead of the LIBOR retirement date, which is scheduled for June 30, 2023.[12]

This proposed rule change is intended to help facilitate the centralized receipt and dissemination of such replacement rate information through LENS, without requiring the submission of individual LENS notice emails for posting. Specifically, the proposal will update the OA to (i) establish a new LENS tool for receiving replacement rate information on Securities currently benchmarked to LIBOR (*i.e.,* the LIBOR Replacement Index Communication Tool (''Communication Tool'')), and (ii) provide for the posting of that replacement rate information to LENS.[13]

While DTC will continue to use email for submission of all other LENS notice types, the LENS Communication Tool will offer a more efficient and effective process to receive and disseminate potentially high volumes [14] of replacement rate information through LENS in a compressed time period.

Proposed Rule Change

Pursuant to the proposed rule change, the OA will be revised to include a new section on the Communication Tool (''New Section''). The New Section will explain that the Communication Tool is designed to help issuers, trustees and agents communicate via LENS certain LIBOR benchmark replacement rate information for Securities that are converting from LIBOR (USD) to an alternative reference rate. The New Section will provide a link to DTCC's LIBOR transition web page,[15] where the Communication Tool will be available, and will note that links to the Communication Tool also may be available via the DTCC website, Important Notices, direct communications with issuers, trustees and agents, and other websites.

Regarding use of the Communication Tool, the New Section will explain that users must first complete an automated verification process.[16] Once verified, access will be granted and the user will be able an input replacement rate information (i) for multiple securities at one time, using templates in the Communication Tool, or (ii) for an individual Security, not using a template.[17] In either case, the user also will have the option to upload accompanying documentation to include with the inputted replacement rate information, all of which will be posted to LENS.

The New Section will explain that once the user has successfully input all replacement rate information (and uploaded any accompanying documentation), the user may review the information and make any changes, if necessary. If satisfied with the information provided, the user may submit the information for posting to LENS. Once submitted to LENS, the user will be able to save, export, and print a copy of the posted information for the user's own records.

The New Section will note that (i) all replacement rate information and any accompanying documentation (if applicable) submitted by the user will be posted to LENS in a standardized format reflecting the information submitted by the user; (ii) users should retain a copy of all replacement rate information that they submit for their own records; and (iii) the Communication Tool will be decommissioned and the New Section deleted by DTC on September 30, 2024, as explained further below.

Finally, the New Section will include a disclaimer that DTC does not review any information submitted through the Communication Tool for accuracy, completeness, or confidential information. Rather, it is the full and sole responsibility of the user submitting the information to ensure that the information is accurate, complete, and does not include any

[9] Pursuant to Rule 17Ad–16 under the Act, an ''appropriate qualified registered securities depository'' shall mean the qualified registered securities depository that the Commission so designates by order or, in the absence of such designation, the qualified registered securities depository that is the largest holder of record of all qualified registered securities depositories as of the most recent record date. 17 CFR 240.17Ad–16(f).

[10] *See* OA, *supra* note 6, at 23–25.

[11] *Id.* Participant fees for single-use access and subscriptions to LENS are set forth in the DTC Fee Guide. *See* DTC Fee Guide, *available at https://www.dtcc.com/-/media/Files/Downloads/legal/fee-guides/DTC-Fee-Schedule.pdf,* at 25.

[12] *See* ARRC LIBOR Legacy Playbook (July 11, 2022) (''ARRC Playbook''), *available at https://www.newyorkfed.org/medialibrary/Microsites/arrc/files/2022/LIBOR_Legacy_Playbook.pdf,* at 1.

[13] The Communication Tool was developed by DTC, in consultation with the Alternative Reference Rate Committee (''ARRC'') and other financial industry organizations. The ARRC is a group of private-market participants convened by the Board of Governors of the Federal Reserve System and the Federal Reserve Bank of New York to help ensure a successful transition from LIBOR to an alternative reference rate, such as the Secured Overnight Financing Rate (''SOFR''). ARRC is comprised of a diverse set of private-sector entities with a presence in markets affected by LIBOR, and a wide array of official-sector entities, including banking and financial sector regulators, as ex-officio members. *See* ARRC website, *available at https://www.newyorkfed.org/arrc/about.*

[14] DTC believes over 100,000 issuances may require the dissemination of replacement rate information in connection with the pending retirement of LIBOR.

[15] *Available at https://www.dtcc.com/settlement-and-asset-services/issuer-services/libor-transition.* The web page will include, among other things, a LIBOR Replacement Index Communication Tool User Guide to help issuers, trustees and agents navigate and use the Communication Tool, including step-by-step instructions and descriptive information on forms and required data fields.

[16] Users will be required to provide their business contact information for verification purposes.

[17] Template options will vary based on template format and the alternative reference rate chosen (*e.g.,* SOFR or a different reference rate). The templates are included as an Exhibit 3 to this proposal.

information that would otherwise be deemed as confidential or material non-public information.

Effective Date

The proposed rule change will be implemented on February 24, 2023.

Termination Date

As indicated above, LIBOR is expected to be retired on June 30, 2023. DTC believes that demand and use of the Communication Tool will gradually reduce after that date. Therefore, in anticipation of the Communication Tool no longer being needed by September 30, 2024, pursuant to this proposed rule change, the Communication Tool will be decommissioned September 30, 2024, and the New Section proposed herein would be removed from the OA.

2. Statutory Basis

Section 17A(b)(3)(F) of the Act [18] requires that the rules of the clearing agency be designed, *inter alia,* to, generally, protect investors and the public interest. As described above, the proposed rule change would help facilitate the communication of LIBOR replacement rate information provided through the new LENS Communication Tool and posted to LENS. As with other information posted to LENS, Participants may then communicate such replacement rate information to their customers that hold affected Securities. In this regard, DTC believes that the proposed rule change would help protect investors and the public interest by promoting fair and transparent markets through facilitation of the distribution of replacement rate information to Participants, who may then pass the information to their clients.

Rule 17Ad–22(e)(21) [19] promulgated under the Act requires, *inter alia,* that DTC, a covered clearing agency, establish, implement, maintain and enforce written policies and procedures reasonably designed to, as applicable, be efficient and effective in meeting the requirements of its participants and the markets it serves. As described above, the proposed rule change would update the OA to establish the Communication Tool—a Web-based, centralized means for DTC to receive replacement rate information more efficiently and effectively than via an email submission—and to provide for the posting of that replacement rate information to LENS for Participant consumption. In this regard, DTC believes that the proposed rule change would provide a more streamlined approach for issuers, trustees and agents to disseminate replacement rate information to Participants, and ultimately investors, regarding Securities that they may hold and processed through DTC. Therefore, DTC believes that the proposed rule change would help promote efficiency and effectiveness in DTC meeting the requirements of its participants and the markets it serves, consistent with Rule 17Ad–22(e)(21).

(B) Clearing Agency's Statement on Burden on Competition

DTC does not believe that the proposed rule change will have any impact, or impose any burden, on competition.

As described above, the proposed rule change consists of changes to the OA that will provide for the implementation of the Communication Tool to accommodate the submission of replacement rate information for posting to LENS. The Communication Tool will be publicly available on DTCC's LIBOR transition web page. Use of the Communication Tool to submit replacement rate information will be free of charge and there will be no additional charge for Participants to receive such replacement rate information as part of their existing LENS subscription.[20]

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

DTC has not received or solicited any written comments relating to this proposal. If any written comments are received, they would be publicly filed as an Exhibit 2 to this filing, as required by Form 19b–4 and the General Instructions thereto.

Persons submitting comments are cautioned that, according to Section IV (Solicitation of Comments) of the Exhibit 1A in the General Instructions to Form 19b–4, the Commission does not edit personal identifying information from comment submissions. Commenters should submit only information that they wish to make available publicly, including their name, email address, and any other identifying information.

All prospective commenters should follow the Commission's instructions on how to submit comments, available at *https://www.sec.gov/regulatory-actions/how-to-submitcomments.* General questions regarding the rule filing process or logistical questions regarding this filing should be directed to the Main Office of the Commission's Division of Trading and Markets at *tradingandmarkets@sec.gov* or 202–551–5777.

DTC reserves the right to not respond to any comments received.

III. Date of Effectiveness of the Proposed Rule Change, and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) [21] of the Act and paragraph (f) [22] of Rule 19b–4 thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–DTC–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.

All submissions should refer to File Number SR–DTC–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

[18] 15 U.S.C. 78q–1(b)(3)(F).

[19] 17 CFR 240.17Ad–22(e)(21).

[20] Although existing Participant fees for the use of LENS would continue to apply, LENS is an optional service and Participants are only charged if they choose to participate in the service.

[21] 15 U.S.C. 78s(b)(3)(A).

[22] 17 CFR 240.19b–4(f).

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 DTC and on DTCC's website (*http://dtcc.com/legal/sec-rule-filings.aspx*). 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–DTC–2023–002 and should be submitted on or before March 28, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[23]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–04581 Filed 3–6–23; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–97014; File No. SR–CboeEDGX–2023–013]

Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Adopt a New Data Product Called the Cboe One Options Feed

March 1, 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 February 27, 2023, Cboe EDGX Exchange, Inc. (''Exchange'' or ''EDGX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe EDGX Exchange, Inc. (the ''Exchange'' or ''EDGX'') proposes to adopt a new data product called the Cboe One Options Feed. 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 establish a new market data product called the Cboe One Options Feed.[3] The Exchange also proposes to amend Exchange Rule 21.15(b) to add a description of the Cboe One Options Feed under new subparagraph (7). As described more fully below, the Cboe One Options Feed is a data feed that that will offer top of book quotations and execution information based on options orders entered into the Exchange System and its affiliated options exchanges Cboe Exchange, Inc. (''Cboe Options''), Cboe C2 Exchange, Inc. (''C2 Options''), and Cboe BZX Exchange, Inc. (''BZX Options'') (collectively, the ''Affiliates'' and collectively with the Exchange, the ''Cboe Options Exchanges'') and for which the Cboe Options Exchanges report quotes under the OPRA Plan.[4]

Currently, the Exchange offers EDGX Options Top feed, which is an uncompressed data feed that offers top-of-book quotations and last sale information based on options orders entered into the Exchange's System. The EDGX Options Top feed benefits investors by facilitating their prompt access to real-time top-of-book information contained in EDGX Options Top. The Exchange notes that EDGX Options Top is ideal for market participants requiring both quote and trade data. The Exchange's Affiliates also offer similar top-of-book data.[5] Particularly, each of the Exchange's Affiliates 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 Exchange's Affiliates top feeds is identical to the data sent to OPRA for redistribution to the public.

The Exchange now proposes to adopt a market data product that will provide top-of-book quotation and last sale information based on the quotation and trading activity on the Exchange and each of its Affiliates, which the Exchange believes will offer a comprehensive and highly representative view of US options pricing to market participants. More specifically, the proposed Cboe One Options Feed will contain the aggregate best bid and offer (''BBO'') of all displayed orders for options traded on the Exchange and its Affiliates, as well as individual last sale information and volume, for options traded on the Exchange, which includes the price, time of execution and individual Cboe options exchange on which the trade was executed. The Cboe One Options Feed will also consist of Symbol Summary,[6] Market Status,[7] Trading

[23] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Exchange previously submitted the proposed rule change on January 30, 2023 (SR–CboeEDGX–2023–007). *See* Securities Exchange Act Release No. 96889 (February 13, 2023), 88 FR 10394, (February 17, 2023) (SR–CboeEDGX–2023–007). The Exchange is withdrawing SR–CboeEDGX–2023–007 and submitting this filing to make clarifying, non-substantive changes to more clearly reflect the obligations under the OPRA Plan, which the Exchange believes will avoid potential confusion, as well as address the comments raised by another exchange group in a comment letter received on February 23, 2023. *See* Letter from Greg Ferrari, Vice President, U.S. Options, Nasdaq Stock Market LLC, Nasdaq PHLX LLC, Nasdaq BX, Inc., Nasdaq ISE, LLC, Nasdaq GEMX, LLC, and Nasdaq MRX, LLC markets (collectively ''Nasdaq''), to Vanessa Countryman, Secretary Commission, dated February 23, 2023.

[4] The Exchange understands that each of the Cboe Options Exchanges will separately file substantially similar proposed rule changes to implement Cboe One Options Feed and its related fees.

[5] *See* Cboe Data Services, LLC Fee Schedule, C2 Options Exchange Fees Schedule, Cboe Data Services, LLC Fees, and BZX Rule 21.15.

[6] The Symbol Summary message will include the total executed volume across all Cboe Options Exchanges.

[7] The Market Status message is disseminated to reflect a change in the status of one of the Cboe Options Exchanges. For example, the Market Status

Status,[8] and Trade Break [9] messages for the Exchange and each of its Affiliates.

The Exchange notes that the Exchange and its affiliated equities exchanges Cboe BYX Exchange, Inc. (''BYX''), Cboe BZX Exchange, Inc. (''BZX Equities''), and Cboe EDGA Exchange, Inc. (''EDGA'') already offer a similar data product, the Cboe One Summary Feed, which contains the aggregate best bid and offer of all displayed orders for securities traded on the Exchange and each of the Exchange's affiliated equities exchanges as well as last sale information for each of the Exchange and the Exchange's affiliated equities exchanges.[10] The Cboe One Summary Feed also consists of Symbol Summary, Market Status, Trading Status, and Trade Break messages for each of its affiliated equities exchanges.

Particularly, the Cboe One Options Feed will offer market participants with a new option for receiving Cboe market data that provides a consolidated view of activity on all Cboe options exchanges. The Exchange proposes to offer the Cboe One Options Feed voluntarily in response to demand from market participants (*e.g.,* retail brokerage firms) that are interested in receiving the aggregate top of book quotation and last sale information from the Cboe Options Exchanges as part of a single data feed. Specifically, Cboe One Options Feed can be used by industry professionals and retail investors looking for a cost effective, easy-to-administer, high quality market data product with the characteristics of the Cboe One Options Feed. For example, today an entity can subscribe to various market data products offered by single exchanges and distribute or resell that data, either separately or in the aggregate, to their customers as part of their own market data offerings.[11] Distributors and vendors may incur administrative costs when consolidating and augmenting the data to meet their customer's need. Consequently, distributors and/or vendors may simply choose to not take the data from each of the Cboe Options Exchanges because of the effort and cost required to aggregate data from separate feeds into their existing products. The Exchange believes those same distributors and/or vendors may be interested in distributing the Cboe One Options Feed so that they may easily incorporate aggregated or summarized Cboe Options Exchange data into their own products without themselves incurring the costs of the repackaging and aggregating the data it would receive by subscribing to each market data product offered by the individual Cboe Options Exchanges. The Exchange therefore believes that the Cboe One Options Feed would provide high-quality, comprehensive last sale and top-of-book data for the Cboe Options Exchanges in a unified view and respond to demand for such a product.

The Exchange also notes that it has taken into consideration its affiliated relationship with its Affiliates in its design of Cboe One Options Feed to assure distributors and/or vendors would be able to resell and offer a similar product on the same terms as the Exchange, both from a perspective of latency and cost.

With respect to latency, the path for distribution by the Exchange of Cboe One Options Feed would not be faster than the path for distribution by a vendor that independently created a Cboe One Options Feed-like product could distribute its own product. As such, the proposed Cboe One Options data feed is a data product that a vendor could create and sell without being in a disadvantaged position relative to the Exchange. In recognition that the Exchange is the source of its own market data and is affiliated with Cboe Options, BZX Options and C2 Options, the Exchange represents that the source of the market data it would use to create the proposed Cboe One Options Feed is available to vendors. Specifically, the Exchange would use the following data feeds to create the proposed Cboe One Options Feed, each of which is available to other vendors: the EDGX Options Top, Cboe Options Top Data, the C2 Options Top Data, and the BZX Options Top Feeds. The Cboe Options Exchanges will continue to make available these individual underlying feeds, and thus, the source of the market data it would use to create the proposed Cboe One Options feed is the same as the source available to other vendors.

In order to create the Cboe One Options Feed, the Exchange will receive the individual data feeds from each Cboe Options Exchange and, in turn, aggregate and summarize that data to create the Cboe One Options Feed. This is the same process any entity would undergo should it create a market data product similar to the Cboe One Options Feed to distribute to its customers. In addition, the servers of most vendors could be located in the same facilities as the Exchange, and, therefore, should receive the individual data feed from each Cboe Options Exchange at the same time the Exchange would for it to create the Cboe One Options Feed.[12] Therefore, a vendor that is located in the same facilities as the Exchange could obtain the underlying data feeds from the Cboe Options Exchanges on the same latency basis as the system that would be performing the aggregation and consolidation of the proposed Cboe One Options Feed and provide the same type of product to its customers with the same latency they could achieve by purchasing the Cboe One Options Feed from the Exchange. As such, the Exchange would not have any unfair advantage over vendors with respect to obtaining data from the individual Cboe Options Exchanges. In fact, the technology supporting the Cboe One Options Feed would similarly need to obtain the Exchange's data feed as well and even this connection would be on a level playing field with a vendor located at the same facility as the Exchange. The Exchange has designed the Cboe One Options data feed so that it would not have a competitive advantage over a vendor with respect to

message will indicate whether one of the Cboe Options Exchanges is experiencing a systems issue or disruption and quotation or trade information from that market is not currently being disseminated via the Cboe One Options Feed as part of the aggregated BBO. The Market Status message will also indicate when a Cboe Options Exchange is no longer experiencing a systems issue or disruption to properly reflect the status of the aggregated BBO.

[8] The Trade Break message will indicate when an execution on a Cboe Options Exchange is broken in accordance with the individual Cboe Options Exchange's rules (*e.g.,* Cboe Options Rule 6.5, C2 Option Rule 6.5, BZX Options Rule 20.6, EDGX Options Rule 20.6).

[9] The Trading Status message will indicate the current trading status of an option contract on each individual Cboe Options Exchange. A Trading Status message will also be sent whenever a security's trading status changes. For example, a Trading Status message will be sent when a symbol is open for trading or when a symbol is subject to a trading halt or when it resumes trading.

[10] *See* BZX Rule 11.22(j), BYX Rule 11.22(i), EDGA Rule 13.8(b) and EDGX Rule 13.8(b).

[11] For purposes of this filing, a ''vendor'', which is a type of distributor, will refer to any entity that receives an exchange market data product directly from the exchange or indirectly from another entity (for example, from an extranet) and then resells that data to a third-party customer (*e.g.,* a data provider that resells exchange market data to a retail brokerage firm). The term ''distributor'' herein, will refer to any entity that receives an exchange market data product, directly from the exchange or indirectly from another entity (*e.g.,* from a data vendor) and then distributes to individual internal or external end-users (*e.g.,* a retail brokerage firm who distributes exchange data to its individual employees and/or customers). An example of a vendor's ''third-party customer'' or ''customer'' is an institutional broker dealer or a retail broker dealer, who then may in turn distribute the data to their customers who are individual internal or external end-users.

[12] The Exchange notes that it does not own the facilities in which its servers are located but is aware that there are vendors that currently locate their servers in the same facilities as the Exchange and on an equal basis as the Exchange. The Exchange is not aware of any reasons why vendors would not be able to locate their servers on an equal basis as the Exchange on an on-going basis.

the speed of access to those underlying data feeds. Likewise, the Cboe One Options data feed would not have a speed advantage vis-à-vis vendors located in the same data center as the Exchange with respect to access to its customers, whether those customers are also located in the same data center or not.

With regard to cost, the Exchange will file a separate rule filing with the Commission to establish fees for Cboe One Options Feed, which would be designed to ensure that vendors could compete with the Exchange by creating a similar product as the Cboe One Options Feed. The pricing the Exchange would charge for the Cboe One Options Feed would not be lower than the cost to a vendor (or distributor) to obtain the underlying Cboe Options Exchanges' top-of-book data feeds. The pricing the Exchange would charge for the Cboe One Options Feed compared to the cost of the individual data feeds from the Cboe Options Exchanges would enable a vendor to receive the underlying data feeds and offer a similar product on a competitive basis and with no greater latency than the Exchange. The Distribution and User (Professional and Non-Professional) fees that the Exchange intends to propose for the Cboe One Options Feed would be equal to the combined fees for subscribing to each individual data feed. Additionally, the Exchange also intends to propose a separate ''Data Consolidation Fee'', which would reflect the value of the aggregation and consolidation function the Exchange performs in creating the Cboe One Options Feed. The intended proposed pricing would therefore enable a vendor to create a competing product based on the individual data feeds and charge its customer a fee that it believes reflects the value of the aggregation and consolidation function that is competitive with Cboe One Options Feed pricing. For these reasons, the Exchange believes that vendors could readily offer a product similar to the Cboe One Options Feed on a competitive basis at a similar cost.

Implementation

The Exchange will announce when it intends to make available the Cboe One Options feed, subject to the effectiveness of the proposed rule change and the effectiveness of a rule filing to establish the fees (via a separate rule filing).[13]

2. Statutory Basis

The Exchange believes that the proposed Cboe One Options Feed is consistent with Section 6(b) of the Act,[14] in general, and furthers the objectives of Section 6(b)(5) of the Act,[15] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and to protect investors and the public interest, and that it is not designed to permit unfair discrimination among customers, brokers, or dealers. The Exchange also believes this proposal is consistent with Section 6(b)(5) of the Act because it protects investors and the public interest and promotes just and equitable principles of trade by providing investors with new options for receiving market data as requested by market participants and Section 6(b)(8) of the Act, which requires that the rules of an exchange not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.[16]

The Exchange also believes that the proposed rule change is consistent with Section 11(A) of the Act [17] in that it supports (i) fair competition among brokers and dealers, among exchange markets, and between exchange markets and markets other than exchange markets and (ii) the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities.

In adopting Regulation NMS, the Commission granted self-regulatory organizations and broker-dealers increased authority and flexibility to offer new and unique market data to consumers of such data. It was believed that this authority would expand the amount of data available to users and consumers of such data and also spur innovation and competition for the provision of market data. The Exchange believes that the proposed Cboe One Options Feed would further broaden the availability of U.S. option market data to investors consistent with the principles of Regulation NMS. Particularly, the Exchange believes the proposed Cboe One Options Feed promotes transparency by disseminating the Cboe Options Exchanges' market data more widely through additional distribution channels, which will enable investors to better monitor trading activity on the Cboe Options Exchanges, and thereby serve the public interest. The Exchange is providing additional distribution channels because it believes market participants may be more inclined to purchase a combined data feed and redistribute it. Particularly, the Exchange believes that market participants would welcome a market data product that would provide high-quality, comprehensive top-of-book and last sale data for the Cboe Options Exchanges in a unified view (*i.e.,* the Cboe One Options Feed).

The Exchange also 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.[18] 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. While there is not currently an aggregated top-of-book data product offered at competitor options exchanges, the quote and last sale data contained in the proposed Cboe One Options Feed is identical to data already provided in the Exchange's and its Affiliate's individual top-of-book data products as well as to the data sent to OPRA for redistribution to the public.[19] Accordingly, Exchange top-of-book data is therefore widely available today from a number of different sources.

Moreover, exchange top-of-book data is distributed and purchased on a voluntary basis, in that neither the Exchange nor market data distributors or vendors are required by any rule or regulation to make this data available. Accordingly, distributors and vendors can discontinue use at any time and for any reason, including due to an assessment of the reasonableness of fees charged. Further, the Exchange is not required to make any proprietary data products available or to offer any specific pricing alternatives to any customers. Moreover, persons (including broker-dealers) who subscribe to any exchange proprietary data feed must also have equivalent access to consolidated Options

[13] The Exchange also represents that should it wish to modify the proposed Cboe One Options Feed data product in the future, it will submit a proposed rule change as required under the Act.

[14] 15 U.S.C. 78f.

[15] 15 U.S.C. 78f(b)(5).

[16] 15 U.S.C. 78f(b)(8).

[17] 15 U.S.C. 78k–1.

[18] *See* Cboe Global Markets U.S. Options Market Month-to-Date Volume Summary (January 9, 2023), available at *https://markets.cboe.com/us/options/market_statistics/.*

[19] The Exchange notes that it and its Affiliates, make available their respective top-of-book data and last sale data that is included in each exchange's top-of-book data feed no earlier than the time at which the Exchange sends that data to OPRA.

Information [20] from OPRA for the same classes or series of options that are included in the proprietary data feed, and proprietary data feeds cannot be used to meet that particular requirement.[21] As such, all proprietary data feeds are optional.

Similar to exchanges' individual top-of-book data feeds, the proposed Cboe One Options Feed would be distributed and purchased on a voluntary basis, in that neither the Exchange, its Affiliates, nor market data distributors or vendors are required by any rule or regulation to make this data feed available. Accordingly, distributors and vendors can discontinue use at any time and for any reason, including due to an assessment of the reasonableness of fees charged. The Exchange believes that the proposed Cboe One Options Feed will offer an alternative to subscribing to the Cboe Options Exchanges four individual top-of-book data feeds. Also, as noted above, there is a history of offering similar consolidated data products in the equities industry. Indeed, the Exchange's affiliated equities exchanges offer the Cboe One Summary Feed, which is a substantially similar data product which contains the aggregate BBO of all displayed orders for securities (instead of options) traded on the Cboe's equities exchanges, along with last sale information.[22] The Cboe One Summary Feed also consists of Symbol Summary, Market Status, Trading Status, and Trade Break messages.[23]

The Exchange believes the proposal would not permit unfair discrimination because the product will be available to all market data distributors and vendors on an equivalent basis. Any distributor or vendor that wishes to instead purchase one or more of the individual data feeds offered by the Cboe Options Exchanges separately will still be able to do so. Further, the Exchange and its Affiliates will continue to make the data contained in the proposed Cboe One Options Feed available no earlier than the time at which the exchanges send that data to OPRA.

In addition, the Exchange does not believe that the proposal would permit unfair discrimination among customers, brokers, or dealers and thus is consistent with the Act because the Exchange will be offering the product on terms that a vendor could offer a competing product. Specifically, the proposed data feed merely represents an aggregation and consolidation of data contained in existing, previously filed individual market data products of the Cboe Options Exchanges. As such, a vendor could similarly obtain the underlying data feeds and perform a similar aggregation and consolidation function to create the same data product as being proposed with the same latency and cost as the Exchange.

The Exchange has taken into consideration its affiliated relationship with Cboe Options, BZX Options and C2 Options in its design of the Cboe One Options Feed to assure that distributors and/or vendors would be able to offer a similar product on the same terms as the Exchange, both from the perspective of latency and cost. As discussed above, the Exchange proposes to offer the Cboe One Options Feed voluntarily in response to demand from market participants such as retail brokerage firms that are interested in receiving and distributing the top-of-book quotation and last sale information from the Cboe Options Exchanges as part of a single data feed. Specifically, Cboe One Options Feed can be used by industry professionals and retail investors looking for a cost effective, easy-to-administer, high quality market data product with the characteristics of the Cboe One Options Feed. The Cboe One Options Feed would help protect a free and open market by providing market participants additional choices in receiving this type of market data, thus promoting competition and innovation.

With respect to latency, the path for distribution by the Exchange of Cboe One Options Feed would not be faster than the path for distribution a vendor that independently created a Cboe One Options Feed-like product could distribute its own product. As such, the proposed Cboe One Options data feed is a data product that a vendor could create and sell without being in a disadvantaged position relative to the Exchange. In recognition that the Exchange is the source of its own market data and is affiliated with Cboe Options, BZX Options and C2 Options, the Exchange represents that the source of the market data it would use to create the proposed Cboe One Options Feed is available to other vendors. Specifically, the Exchange would use the following data feeds to create the proposed Cboe One Options Feed, each of which is available to other vendors: the EDGX Options Top, Cboe Options Top Data, the C2 Options Top Data, and the BZX Options Top Feeds. The Cboe Options Exchanges will continue to make available these individual underlying feeds, and thus, the source of the market data it would use to create the proposed Cboe One Options feed is the same as the source available to other vendors.

In order to create the Cboe One Options Feed, the Exchange will receive the individual data feeds from each Cboe Options Exchange and, in turn, aggregate and summarize that data to create the Cboe One Options Feed. This is the same process any vendor would undergo should it create a market data product similar to the Cboe One Options Feed to distribute to its customers. In addition, the servers of most vendors could be located in the same facilities as the Exchange, and, therefore, should receive the individual data feed from each Cboe Options Exchange at the same time the Exchange would for it to create the Cboe One Options Feed. Therefore, a vendor that is located in the same facilities as the Exchange could obtain the underlying data feeds from the Cboe Options Exchanges on the same latency basis as the system that would be performing the aggregation and consolidation of the proposed Cboe One Options Feed and provide the same type of product to its customers with the same latency they could achieve by purchasing the Cboe One Options Feed from the Exchange. As such, the Exchange would not have any unfair advantage over vendors with respect to obtaining data from the individual Cboe Options Exchanges. In fact, the technology supporting the Cboe One Options Feed would similarly need to obtain the Exchange's data feed as well and even this connection would be on a level playing field with a vendor located at the same facility as the Exchange. The Exchange has designed the Cboe One Options data feed so that it would not have a competitive advantage over a vendor with respect to the speed of access to those underlying data feeds. Likewise, the Cboe One Options data feed would not have a speed advantage vis-à-vis vendors located in the same data center as the Exchange with respect to access to customers, whether those customers are also located in the same data center or not.

[20] ''Consolidated Options Information'' means consolidated Last Sale Reports combined with either consolidated Quotation Information or the BBO furnished by OPRA. Access to consolidated Options Information is deemed ''equivalent'' if both kinds of information are equally accessible on the same terminal or work station. *See* Limited Liability Company Agreement of Options Price Reporting Authority, LLC (''OPRA Plan''), Section 5.2(c)(iii). The Exchange notes that this requirement under the OPRA Plan is also reiterated under the Cboe Global Markets Global Data Agreement and Cboe Global Markets North American Data Policies, which subscribers to any exchange proprietary product must sign and are subject to, respectively. Additionally, the Exchange's Data Order Form (used for requesting the Exchange's market data products) requires confirmation that the requesting market participant receives data from OPRA.

[21] *Id.*

[22] *See* BZX Rule 11.22(j), BYX Rule 11.22(i), EDGA Rule 13.8(b) and EDGX Rule 13.8(b).

[23] *Id.*

With regard to cost, the Exchange will file a separate rule filing with the Commission to establish fees for Cboe One Options Feed, which would be designed to ensure that vendors could compete with the Exchange by creating a similar product as the Cboe One Options Feed to offer and resell. The pricing the Exchange would charge for the Cboe One Options Feed would not be lower than the cost to a vendor (or distributor) to obtain the underlying Cboe Options Exchanges' top-of-book data feeds. The pricing the Exchange would charge clients for the Cboe One Options Feed compared to the cost of the individual data feeds from the Cboe Options Exchanges would enable a vendor to receive the underlying data feeds and offer a similar product on a competitive basis and with no greater latency than the Exchange. The Distribution and User (Professional and Non-Professional) fees that the Exchange intends to propose for the Cboe One Options Feed would be equal to the combined fees for subscribing to each individual data feed.[24] The Exchange also intends to propose a separate ''Data Consolidation Fee'', which would reflect the value of the aggregation and consolidation function the Exchange performs in creating the Cboe One Options Feed. The intended proposed fees would therefore enable a vendor to create a product based on the individual data feeds and charge its clients a fee that it believes reflects the value of the aggregation and consolidation function that is competitive with Cboe One Options Feed pricing. For these reasons, the Exchange believes that vendors could readily offer a product similar to the Cboe One Options Feed on a competitive basis at a similar cost.

[24] For example, the combined external distribution fee for the individual data feeds of the Cboe Options Exchanges is $10,000 per month (*i.e.,* the monthly external distribution fee is $5,000 per month for the Cboe Options Top, $2,500 per month for C2 Options Top $2,000 per month for BZX Options Top, and $500 for EDGX Options Top). The monthly Professional User fee for the individual data feeds of the Cboe Options Exchanges is $30.50 per Professional User (*i.e.,* the monthly Professional User fee is $15.50 per Professional User for the Cboe Options Top, $5 per Professional User for C2 Options Top; $5 per Professional User for BZX Options Top, and $5 per Professional User for EDGX Options Top). The combined monthly Non-Professional User fee for the individual data feeds of the Cboe Options Exchanges is $0.60 per Non-Professional User (*i.e.,* the monthly Non-Professional User fee is $0.30 per Non-Professional User for Cboe Options Top, $0.10 per Non-Professional User for C2 Options Top, $0.10 per Non-Professional User for BZX Options Top, and $0.10 per Non-Professional User for EDGX Options Top).

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. Because the Exchange and its affiliates, along with other exchanges already offer the similar underlying data products, the Exchange's proposed Cboe One Options Feed will enhance competition. This proposed new data feed provides investors with new options for receiving market data, which was a primary goal of the market data amendments adopted by Regulation NMS.[25] As the Cboe Options Exchanges are consistently one of the top exchange operators by market share for U.S. options trading the data included within the Cboe One Options Feed will provide investors a new option for obtaining a broad market view, consistent with the primary goal of the market data amendments adopted by Regulation NMS.

The Exchange believes the Cboe One Options Feed will further enhance competition by providing distributors and vendors with a data feed that allows them to more quickly and efficiently integrate into their existing products. For example, today, vendors may subscribe to various market data products offered by single exchanges and resell that data, either separately or in the aggregate, to their customers as part of their own market data offerings. Distributors and vendors may incur administrative costs when consolidating and augmenting the data to meet their customer's need. Consequently, many distributors and/or vendors will simply choose to not take the data from each of the Cboe Options Exchanges because of the effort and cost required to aggregate data from separate feeds into their existing products. Those same distributors and/or vendors may therefore be interested in the Cboe One Options Feed as they may easily incorporate aggregated or summarized Cboe Options Exchanges' data into their own products without themselves incurring the costs of the repackaging and aggregating the data it would receive by purchasing each market data product offered by the individual Cboe Options Exchanges separately. The Exchange therefore believes that by providing market data that encompasses combined data from affiliated exchanges, the Exchange enables vendors with the ability to compete in the provision of similar content with other vendors, where they may not have done so previously if they were required to purchase the top-of-book feeds from each individual Cboe options exchanges separately.

Although the Exchange considers the acceptance of the Cboe One Options Feed by distributors and vendors as important to the success of the product, depending on their needs, such distributors and vendors may choose not to subscribe to the Cboe One Options Feed and may rather receive the Cboe Options Exchanges' individual market data products and incorporate them into their specific market data products. The Cboe One Options Feed simply provides another option for distributors and vendors to choose from when selecting a product that meets their market data needs.

Exchange Not the Exclusive Distributor of Cboe One Options Feed

Although the Cboe Options Exchanges are the exclusive distributors of the individual data feeds from which certain data elements would be taken to create the Cboe One Options Feed, the Exchange would not be the exclusive distributor of the aggregated and consolidated information that would compose the proposed Cboe One Options Feed. As discussed above, distributors and/or vendors would be able, if they chose, to create a data feed with the same information as the Cboe One Options Feed and distribute it to their clients on a level-playing field with respect to latency and cost as compared to the Exchange's proposed Cboe One Options Feed. The pricing the Exchange would charge for the Cboe One Options Feed would not be lower than the cost to a distributor or vendor to obtain the underlying data feeds. In addition, the pricing the Exchange would charge clients for the Cboe One Options Feed compared to the cost of the individual data feeds from the Cboe Options Exchanges would enable a distributor and/or vendor to receive the underlying data feeds and offer a similar product on a competitive basis and with no greater latency than the Exchange.

Latency

The Cboe One Options Feed is also not intended to compete with similar products offered by distributors. Rather, it is intended to assist them in incorporating aggregated and summarized data from the Cboe Options Exchanges into their own market data products that are provided to their customers. Therefore, distributors will receive the data, who will, in turn, make available Cboe One Options Feed to their end users, either separately or as

[25] See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, at 37503 (June 29, 2005) (Regulation NMS Adopting Release).

incorporated into the various market data products they provide. As stated above distributors may prefer a product like the Cboe One Options Feed so that they may easily incorporate aggregated or summarized Cboe Options Exchange data into their own products without themselves incurring the administrative costs of repackaging and aggregating the data it would receive by subscribing to each market data product offered by the individual Cboe Options Exchanges.

Notwithstanding the above, the Exchange believes that vendors may create a product similar to Cboe One Options Feed based on the market data products offered by the individual Cboe Options Exchanges with no greater latency than the Exchange. As discussed above, in order to create the Cboe One Options Feed, the Exchange will receive the individual data feeds from each Cboe Options Exchange and, in turn, aggregate and summarize that data to create the Cboe One Options Feed. This is the same process a vendor would undergo should it create a market data product similar to the Cboe One Options Feed to distribute to its customers. In addition, the servers of most vendors could be located in the same facilities as the Exchange, and, therefore, should receive the individual data feed from each Cboe Options Exchange at the same time the Exchange would for it to create the Cboe One Options Feed.

The Exchange has designed the Cboe One Options data feed so that it would not have a competitive advantage over a vendor with respect to the speed of access to those underlying data feeds. Likewise, the Cboe One Options data feed would not have a speed advantage vis-à-vis vendors located in the same data center as the Exchange with respect to access to their customers, whether those end users are also located in the same data center or not. Therefore, the Exchange believes that it will not incur any potential latency advantage that will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Cost

With regard to cost, the Exchange will file a separate rule filing with the Commission to establish fees for Cboe One Options Feed that would be designed to ensure that vendors could compete with the Exchange by creating a similar product as the Cboe One Options Feed. The pricing the Exchange would charge clients for the Cboe One Options Feed compared to the cost of the individual data feeds from the Cboe Options Exchanges would enable a vendor to receive the underlying data feeds and offer a similar product on a competitive basis and with no greater latency than the Exchange. The Distribution and User (Professional and Non-Professional) fees that the Exchange proposes for the Cboe One Options Feed will be equal to the combined fees for subscribing to each individual data feed. Moreover, as discussed, the Exchange intends to propose a separate ''Data Consolidation Fee'', which would reflect the value of the aggregation and consolidation function the Exchange performs in creating the Cboe One Options Feed. Therefore, vendors would be enabled to create a competing product based on the individual data feeds and charge their clients a fee that they believes reflects the value of the aggregation and consolidation function that is competitive with Cboe One Options Feed pricing. For these reasons, the Exchange believes that vendors could readily offer a product similar to the Cboe One Options Feed on a competitive basis at a similar cost.

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 Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act [26] and Rule 19b–4(f)(6) [27] thereunder. Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [28] and Rule 19b–4(f)(6) [29] thereunder.

A proposed rule change filed under Rule 19b–4(f)(6) [30] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[31] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the Exchange can launch the proposed Cboe One Options Feed on March 1, 2023, which is the date the original filing (SR–CboeEDGX–2023–007) would have been operative. The Commission notes that Nasdaq in its comment letter believed that ''the Cboe One Feed Proposal should clearly explain the obligations of the OPRA Plan by specifically noting that any person who subscribes to the Cboe One Feed must have equivalent access to OPRA and remove the misleading language identified'' by Nasdaq.[32] Nasdaq further requested that marketing materials for the Cboe One Options Feed clearly indicate this requirement to ensure compliance with the OPRA Plan.[33] The Commission believes that the Exchange has addressed the concerns raised by Nasdaq by removing the language Nasdaq found misleading and clarifying the obligations under the OPRA Plan. Specifically, the Exchange has represented that any person, including broker-dealers, who subscribe to the Cboe One Options Feed must also have equivalent access to consolidated Options Information from OPRA for the same classes or series of options that are included in the proprietary data feed, and proprietary data feeds cannot be used to meet that particular requirement.[34] The Commission notes that no other substantive changes from the Exchange's original filing are being made with this filing. Therefore, the Commission believes that waving the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission designates the proposed

[26] 15 U.S.C. 78s(b)(3)(A).

[27] 17 CFR 240.19b–4(f)(6).

[28] 15 U.S.C. 78s(b)(3)(A).

[29] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[30] 17 CFR 240.19b–4(f)(6).

[31] 17 CFR 240.19b–4(f)(6)(iii).

[32] *See* Letter from Greg Ferrari, Vice President, U.S. Options, Nasdaq, *supra* note 3, at 2. Nasdaq submitted a comment letter to CBOE–2023–009, which was the companion filing to CboeEDGX–2023–007, adopting the Cboe One Options Feed.

[33] *Id.* at 2–3.

[34] *See supra* notes 20–21 and accompanying text. As discussed above, the Exchange has also represented that the requirement under the OPRA Plan is included in the Cboe Global Markets Global Data Agreement and Cboe Global Markets North American Data Policies, which subscribers to any exchange proprietary product must sign and are subject to, respectively. Additionally, the Exchange has represented that its Data Order Form (used for requesting the Exchange's market data products) requires confirmation that the requesting market participant receives data from OPRA. *See supra* note 20.

rule change to be operative on March 1, 2023.[35]

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–2023–013 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–2023–013. 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–2023–013 and should be submitted on or before March 28, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[36]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–04579 Filed 3–6–23; 8:45 am]

BILLING CODE 8011–01–P

[35] For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[36] 17 CFR 200.30–3(a)(12), (59).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #17796 and #17797; South Dakota Disaster Number SD–00139]

Presidential Declaration of a Major Disaster for Public Assistance Only for the State of South Dakota

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of SOUTH DAKOTA (FEMA—4689—DR), dated 02/27/2023.

Incident: Severe Winter Storms and Snowstorm.

Incident Period: 12/12/2022 through 12/25/2022.

DATES: Issued on 02/27/2023.

Physical Loan Application Deadline Date: 04/28/2023.

Economic Injury (EIDL) Loan Application Deadline Date: 11/27/2023.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 02/27/2023, Private Non-Profit organizations that provide essential services of a governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Bennett, Brookings, Clark, Day, Deuel, Hamlin, Jackson, Jones, Kingsbury, Mellette, Oglala Lakota, Potter, Roberts, Stanley, Todd, Tripp.

The Interest Rates are:

	Percent
For Physical Damage:	
Non-Profit Organizations with Credit Available Elsewhere	2.375
Non-Profit Organizations without Credit Available Elsewhere	2.375
For Economic Injury:	
Non-Profit Organizations without Credit Available Elsewhere	2.375

The number assigned to this disaster for physical damage is 17796 B and for economic injury is 17797 0.

(Catalog of Federal Domestic Assistance Number 59008)

Rafaela Monchek,

Acting Associate Administrator, Office of Disaster Recovery & Resilience.

[FR Doc. 2023–04664 Filed 3–6–23; 8:45 am]

BILLING CODE 8026–09–P

SURFACE TRANSPORTATION BOARD

[Docket No. AB 1066 (Sub–No. 3X)]

City of Peoria, Ill.—Discontinuance of Service Exemption—in Peoria County, Ill.

On February 15, 2023, the City of Peoria, Ill. (the City), filed with the Board a petition under 49 U.S.C. 10502 for an exemption from the prior approval requirements of 49 U.S.C. 10903 ''permitting the City, on behalf of the no longer extant Central Illinois Railroad Company ('CIRY'),'' to discontinue common carrier rail service over an approximately 1.1-mile portion of a railroad line known as the Kellar Branch, extending between mileposts 1.71 and 2.78 (the Line), located in the City. The Line traverses U.S. Postal Service Zip Code 61603.

The City states that it purchased the Kellar Branch from the trustee of the Chicago, Rock Island & Pacific Railroad Company in 1984 after the trustee secured authority to abandon it in

1980.[1] The City explains that CIRY was authorized to operate over the Kellar Branch in *Central Illinois Railroad—Operation Exemption—Rail Line of the City of Peoria & the Village of Peoria Heights in Peoria & Peoria Heights, Peoria County, Ill.,* FD 34518, et al. (STB served July 28, 2004). According to the City, CIRY ceased operations in 2010 and was involuntarily dissolved in 2011. In addition, the City asserts that CIRY's prior owners cannot be located and CIRY has failed to abide by its operating, maintenance, and other responsibilities under its prior operating lease with the City, which has been terminated.

The City states that the only customer on the Line, O'Brien Steel Service Co. (O'Brien Steel), has been without rail service since 2010 following the cessation of CIRY's operations.[2] The City explains that, after discontinuance, it intends to transfer approximately 550 feet of right-of-way and track located at the south end of the Line to O'Brien Steel, which plans to use the track as a private industrial spur to connect to the Tazewell & Peoria Railroad.[3] The City attached to its petition a letter from O'Brien Steel supporting the City's petition.

The City states that, based on information in its possession, the Line does not contain any federally granted rights-of-way and that any documentation in its possession will be made available to those requesting it.

As a condition to this exemption, any employee adversely affected by the discontinuance of service shall be protected under *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979).

Because the Line has already been abandoned, trail use/rail banking and public use conditions are not appropriate, and no environmental review is necessary.

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b).

A final decision will be issued by June 5, 2023. Any offer of financial assistance (OFA) under 49 CFR 1152.27(b)(2) to subsidize continued rail service will be due no later than 120 days after the filing of the petition for exemption, or 10 days after service of a decision granting the petition for exemption, whichever occurs sooner.[4] The filing fee for OFAs can be found at 49 CFR 1002.2(f)(25).

Any interested party may file a response to this notice. All pleadings, referring to Docket No. AB 1066 (Sub–No. 3X), must be filed with the Surface Transportation Board either via e-filing on the Board's website or in writing addressed to 395 E Street SW, Washington, DC 20423–0001. In addition, a copy of each pleading must be served on the City's representative, Peter A. Pfohl, Slover & Loftus LLP, 1224 17th Street NW, Washington, DC 20036. Replies to the petition are due on or before March 27, 2023.

Persons seeking further information concerning discontinuance procedures may contact the Board's Office of Public Assistance, Governmental Affairs, and Compliance at (202) 245–0238 or refer to the full abandonment and discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Office of Environmental Analysis at (202) 245–0294. If you require an accommodation under the Americans with Disabilities Act, please call (202) 245–0245.

Board decisions and notices are available at *www.stb.gov*.

Decided: March 2, 2023.

By the Board, Mai T. Dinh, Director, Office of Proceedings.

Brendetta Jones,

Clearance Clerk.

[FR Doc. 2023–04614 Filed 3–6–23; 8:45 am]

BILLING CODE 4915–01–P

[1] The Board has found that the Kellar Branch was fully abandoned when the City acquired it. *Pioneer Indus. Ry.—Discontinuance of Serv. Exemption—Line in Peoria Cnty., Ill.,* AB 1066 (Sub–No. 1X) et al., slip op at 5 (STB served Apr. 16, 2010); *Cty. of Peoria—Adverse Discontinuance—Pioneer Indus. Ry.,* ABA 878, slip op. at 1 (STB served Nov. 19, 2007).

[2] According to the City, Pioneer Industrial Railway (PIRY) obtained non-exclusive local trackage rights over the Line in 2010, *see Pioneer Indus. Ry. Co.—Trackage Rights Exemption—Central Illinois R.R.,* FD 35341 (STB served. Jan. 14, 2010), but has not used them since CIRY's dissolution in 2011. PIRY recently filed a verified notice of exemption for discontinuance of those trackage rights. (Notice, Feb. 13, 2023, *Pioneer Indus. Ry.—Discontinuance of Trackage Rts. Exemption—in Peoria Cnty., Ill.,* AB 1056 (Sub–No. 1X).)

[3] The City asserts that under *Common Carrier Status of States, State Agencies & Instrumentalities & Political Subdivisions,* 363 I.C.C. 132 (1980), abandonment authority is not necessary here because the Line was previously authorized for abandonment and the City has never held itself out as a common carrier.

[4] The City has requested an exemption from the OFA procedures at 49 U.S.C. 10904 and waiver of the related Board regulations at 49 CFR 1152.27.

SURFACE TRANSPORTATION BOARD

[Docket No. AB 1056 (Sub–No. 1X)]

Pioneer Industrial Railway Co. LLC—Discontinuance of Trackage Rights Exemption—in Peoria County, Ill.

Pioneer Industrial Railway Co. LLC (PIRY) has filed a verified notice of exemption under 49 CFR part 1152 subpart F—*Exempt Abandonments and Discontinuances of Service* to discontinue trackage rights over approximately 1.07 miles of rail line located between milepost 1.71 and milepost 2.78 in the City of Peoria, Peoria County, Ill. (the Line).[1] The Line traverses U.S. Postal Service Zip Code 61603.

PIRY has certified that: (1) it has moved no local traffic over the Line for at least two years; (2) because the Line is stub-ended, there is no overhead traffic on the Line to be rerouted; (3) no formal complaint filed by a user of rail service on the Line (or by a state or local government entity acting on behalf of such user) regarding cessation of service on the Line is either pending with the Surface Transportation Board or with any U.S. District Court or has been decided in favor of a complainant within the two-year period; and (4) the requirements at 49 CFR 1105.12 (newspaper publication) and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the discontinuance of service shall be protected under *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

[1] PIRY's discontinuance of trackage rights exemption is related to a concurrently filed petition by the City of Peoria, Ill. (the City), for an exemption ''permitting the City, on behalf of the no longer extant Central Illinois Railroad Company ('CIRY'), to discontinue service'' over the Line. (Pet. 1, Feb. 15, 2023, *City of Peoria, Ill.—Discontinuance of Serv. Exemption—in Peoria, Ill.,* AB 1066 (Sub-No. 3X) (footnote omitted).) In its petition, the City requests that the Board exempt both the discontinuance of service in that docket and PIRY's discontinuance of trackage rights in this docket from the Board's offer of financial assistance (OFA) provisions at 49 U.S.C. 10904. (*Id.* at 14–16.) In its verified notice here, PIRY states that it supports the City's request for exemption from the OFA provisions and, ''to ensure uniform application of the requested exemption, PIRY hereby incorporates herein by reference the City's case for OFA relief.'' (Notice 6.) PIRY's request will be addressed by separate decision.

Provided no formal expression of intent to file an OFA [2] to subsidize continued rail service has been received, this exemption will be effective on April 6, 2023, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues and formal expressions of intent to file an OFA to subsidize continued rail service under 49 CFR 1152.27(c)(2) [3] must be filed by March 17, 2023.[4] Petitions to reopen must be filed by March 27, 2023.

All pleadings, referring to Docket No. AB 1056 (Sub–No. 1X), must be filed with the Surface Transportation Board either via e-filing on the Board's website or in writing addressed to 395 E Street SW, Washington, DC 20423–0001. In addition, a copy of each pleading must be served on PIRY's representative, Robert A. Wimbish, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 800, Chicago, IL 60606–3208.

If the verified notice contains false or misleading information, the exemption is void ab initio.

Board decisions and notices are available at *www.stb.gov.*

Decided: February 28, 2023.

By the Board, Mai T. Dinh, Director, Office of Proceedings.

Aretha Laws-Byrum,

Clearance Clerk.

[FR Doc. 2023–04584 Filed 3–6–23; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Actions on Proposed Highway in California

AGENCY: Federal Highway Administration (FHWA), Department of Transportation (DOT).

ACTION: Notice of limitation on claims for judicial review of actions by the California Department of Transportation (Caltrans).

SUMMARY: The FHWA, on behalf of Caltrans, is issuing this notice to announce actions taken by Caltrans that are final. The actions relate to a proposed highway project, on State Route 99 from post mile 21.2 to 24.4 in the County of Fresno, State of California. Those actions grant licenses, permits, and approvals for the project.

DATES: By this notice, the FHWA, on behalf of Caltrans, is advising the public of final agency actions subject to 23 U.S.C. 139(l)(1). A claim seeking judicial review of the Federal agency actions on the highway project will be barred unless the claim is filed on or before August 4, 2023. If the Federal law that authorizes judicial review of a claim provides a time period of less than 150 days for filing such claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: For Caltrans: Trais Norris, Senior Environmental Planner, 2015 East Shields Avenue, Suite 100, Fresno, California 93726; phone: 209–601–3521; or email: *trais.norris@dot.ca.gov*.

SUPPLEMENTARY INFORMATION: Effective July 1, 2007, the Federal Highway Administration (FHWA) assigned, and the California Department of Transportation (Caltrans) assumed, environmental responsibilities for this project pursuant to 23 U.S.C. 327. Notice is hereby given that the Caltrans, has taken final agency actions subject to 23 U.S.C. 139(l)(1) by issuing licenses, permits, and approvals for the following highway project in the State of California: Caltrans proposes to rehabilitate State Route 99 between 0.2 mile south of the El Dorado Street Overcrossing and the Clinton Avenue Overcrossing within the City of Fresno in Fresno County. The proposed work includes lengthening and/or widening seven structures and replacing three overcrossings and one railroad underpass, which would provide standard vertical clearances and longer structure spans that would accommodate required horizontal and vertical clearances. The purpose of the project is to provide a long-term solution to the deteriorating pavement within the project limits that reduces maintenance crew exposure and long-term maintenance expenditures.

The actions by the Federal agencies, and the laws under which such actions were taken, are described in the Final Environmental Assessment/Finding of No Significant Impact (FONSI) for the project, approved on February 8, 2023, and in other documents in the FHWA project records. The FEA, FONSI, and other project records are available by contacting Caltrans at the addresses provided above. The Caltrans FEA and FONSI can be viewed and downloaded from the project website at *https://dot.ca.gov/caltrans-near-me/district-6/district-6-projects/06-0w800,* or viewed at public libraries in the project area: the Gillis Branch Library at 629 West Dakota Avenue, Fresno, California 93705; and the Fresno County Public Library at 2420 Mariposa Street, Fresno, California 93721.

This notice applies to all Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. *General:* National Environmental Policy Act (NEPA) [42 U.S.C. 4321–4335].

2. *Land:* Section 4(f) of the Department of Transportation Act of 1966 [23 U.S.C. 138 and 49 U.S.C. 303].

3. *Wildlife:* Federal Endangered Species Act [16 U.S.C. 1531–1543]; Fish and Wildlife Coordination Act [16 U.S.C. 661–666(C); Migratory Bird Treaty Act [16 U.S.C. 760c–760g].

4. *Historic and Cultural Resources:* Section 106 of the National Historic Preservation Act of 1966, as amended [16 U.S.C. 470(f) *et seq.*].

5. *Wetlands and Water Resources:* Clean Water Act [33 U.S.C. 1344].

6. *Hazardous Waste:* Comprehensive Environmental Response, Compensation and Liability Act [42 U.S.C. 103]; Resource Conservation and Recovery Act of 1976 [42 U.S.C. 6901 *et seq.*].

7. Title VI of the Civil Rights Act of 1964, as amended.

8. Executive Order 12898, Federal Actions to Address Environmental Justice and Low Income Populations.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

(Authority: 23 U.S.C. 139(l)(1))

Dated: March 1, 2023.

Antonio Johnson,

Director, Environment, Right-of-Way, Federal Highway Administration, California Division.

[FR Doc. 2023–04563 Filed 3–6–23; 8:45 am]

BILLING CODE 4910–RY–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2023–0050]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: DOUBLE DOWN (Motor); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

[2] Persons interested in submitting an OFA to subsidize continued rail service must first file a formal expression of intent to file an offer, indicating the intent to file an OFA for subsidy and demonstrating that they are preliminarily financially responsible. *See* 49 CFR 1152.27(c)(2)(i).

[3] The filing fee for OFAs can be found at 49 CFR 1002.2(f)(25).

[4] Because this is a discontinuance proceeding and not an abandonment, interim trail use/rail banking and public use conditions are not appropriate. Because there will be an environmental review during abandonment, this discontinuance does not require an environmental review.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before April 6, 2023.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2023–0050 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2023–00050 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2023–0050, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel DOUBLE DOWN is:

—Intended Commercial Use of Vessel: ''Commercial passenger fishing vessel, charter fishing vessel, sportfishing vessel.''

—Geographic Region Including Base of Operations: ''California.'' (Base of Operations: San Diego, CA)

—Vessel Length and Type: 34′ Motor

The complete application is available for review identified in the DOT docket as MARAD 2023–0050 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2023–0050 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). For information on DOT's compliance with the Privacy Act, please visit *https://www.transportation.gov/privacy.*

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2023–04642 Filed 3–6–23; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2023–0053]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: SONNY DAZE (Motor); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this

notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before April 6, 2023.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2023–0053 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2023–0053 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2023–0053, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel SONNY DAZE is:

—*Intended Commercial Use of Vessel:* ''Charter, tours, sightseeing.''
—*Geographic Region Including Base of Operations:* ''New York, New Jersey.'' (Base of Operations: Staten Island, NY)
—*Vessel Length and Type:* 34′ Motor

The complete application is available for review identified in the DOT docket as MARAD 2023–0053 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2023–0053 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). For information on DOT's compliance with the Privacy Act, please visit *https://www.transportation.gov/privacy.*

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2023–04651 Filed 3–6–23; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2023–0046]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: KAILANI (Motor); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before April 6, 2023.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2023–0046 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2023–0046 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is U.S. Department of Transportation, MARAD–2023–0046, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel KAILANI is:

—Intended Commercial Use of Vessel: ''Sightseeing.''
—Geographic Region Including Base of Operations: ''Hawaii.'' (Base of Operations: Honolulu, HI)
—Vessel Length and Type: 47' Motor

The complete application is available for review identified in the DOT docket as MARAD 2023–0046 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES.** Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2023–0046 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). For information on DOT's compliance with the Privacy Act, please visit *https://www.transportation.gov/privacy.*

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2023–04646 Filed 3–6–23; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2023–0045]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: ISABELLA (Sail); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before April 6, 2023.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2023–0045 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2023–0045 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location

address is: U.S. Department of Transportation, MARAD–2023–0045, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel ISABELLA is:

—*Intended Commercial Use of Vessel:* ''We plan to use the vessel for recreational yacht charters with crew provided.''
—*Geographic Region Including Base of Operations:* ''Florida.'' (Base of Operations: Key West, FL)
—*Vessel Length and Type:* 54.8′ Sail (Catamaran)

The complete application is available for review identified in the DOT docket as MARAD 2023–0045 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S.-vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES.** Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2023–0045 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). For information on DOT's compliance with the Privacy Act, please visit *https://www.transportation.gov/privacy.*

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2023–04645 Filed 3–6–23; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2023–0051]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: LADY GRACE (Motor); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before April 6, 2023.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2023–0051 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2023–0051 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2023–0051, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a

telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel LADY GRACE is:

—Intended Commercial Use of Vessel: ''Dockside bed and breakfast and uninspected passenger charter.''
—Geographic Region Including Base of Operations: ''Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Maryland, Virginia, North Carolina, South Carolina, Georgia, Florida.'' (Base of Operations: Barnegat Light, NJ)
—Vessel Length and Type: 80' Motor

The complete application is available for review identified in the DOT docket as MARAD 2023–0051 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES.** Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2023–0051 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). For information on DOT's compliance with the Privacy Act, please visit *https://www.transportation.gov/privacy.*

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2023–04647 Filed 3–6–23; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2023–0052]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: MAVERICK (Motor); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before April 6, 2023.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2023–0052 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2023–0052 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2023–0052, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and

specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, email *James.Mead@dot.gov.*

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel MAVERICK is:

—Intended Commercial Use Of Vessel: ''Uninspected passenger vessel.''

—Geographic Region Including Base Of Operations: ''California.'' (Base of Operations: Oceanside, CA)

—Vessel Length And Type: 28′ Motor

The complete application is available for review identified in the DOT docket as MARAD 2023–0052 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES.** Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2023–0052 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). For information on DOT's compliance with the Privacy Act, please visit *https://www.transportation.gov/privacy.*

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2023–04648 Filed 3–6–23; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2023–0048]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: NAUTI STAR (Motor); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before April 6, 2023.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2023–0048 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2023–0048 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2023–0048, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit

comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel NAUTI STAR is:

—Intended Commercial Use of Vessel: ''Commercial halibut 6-pack charter.''
—Geographic Region Including Base of Operations: ''Alaska.'' (Base of Operations: Homer, AK)
—Vessel Length and Type: 29′ Motor

The complete application is available for review identified in the DOT docket as MARAD 2023–0048 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES.** Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2023–0048 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

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(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2023–04649 Filed 3–6–23; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2023–0047]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: CORAGEM (Sail); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before April 6, 2023.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2023–0047 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2023–0047 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2023–0047, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, email *James.Mead@dot.gov.*

SUPPLEMENTARY INFORMATION: As described in the application, the

intended service of the vessel CORAGEM is:

—*Intended Commercial Use of Vessel:* ''To run day charters out of Marathon, Florida.''

—*Geographic Region Including Base of Operations:* ''Florida, Massachusetts, Puerto Rico.'' (Base of Operations: Marathon, FL)

—*Vessel Length and Type:* 43.5′ Sail

The complete application is available for review identified in the DOT docket as MARAD 2023–0047 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2023–0047 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

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(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2023–04641 Filed 3–6–23; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2023–0049]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: GRATITUDE (Motor); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before April 6, 2023.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2023–0049 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2023–0049 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2023–0049, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel GRATITUDE is:

—*Intended Commercial Use of Vessel:* ''6-pack and bareboat cruises. Recreational fishing.''

—*Geographic Region Including Base of Operations:* ''California.'' (Base of Operations: San Francisco, CA)

—*Vessel Length and Type:* 48′ Motor

The complete application is available for review identified in the DOT docket

as MARAD 2023–0049 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2023–0049 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). For information on DOT's compliance with the Privacy Act, please visit *https://www.transportation.gov/privacy.*

(Authority: 49 CFR 1.93(a), 46 U.S.C. § 55103, 46 U.S.C. § 12121)

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2023–04643 Filed 3–6–23; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2023–0042]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: OHANA (Motor); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before April 6, 2023.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2023–0042 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2023–0042 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2023–0042, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel OHANA is:

—*Intended Commercial Use of Vessel:* ''To conduct sightseeing tours.''

—*Geographic Region Including Base of Operations:* ''New Jersey.'' (Base of Operations: Cape May, NJ)

—*Vessel Length and Type:* 26′ Motor

The complete application is available for review identified in the DOT docket as MARAD 2023–0042 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or

a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2023–0042 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). For information on DOT's compliance with the Privacy Act, please visit *https://www.transportation.gov/privacy.*

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2023–04650 Filed 3–6–23; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2023–0044]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: BENTEN (Motor); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before April 6, 2023.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2023–0044 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2023–0044 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2023–0044, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel BENTEN is:

—*Intended Commercial Use of Vessel:* ''Sport fishing (rod and spearfishing) for customers.''

—*Geographic Region Including Base of Operations:* ''California.'' (Base of Operations: San Diego, CA)

—*Vessel Length and Type:* 43' Motor.

The complete application is available for review identified in the DOT docket as MARAD 2023–0044 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES.** Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2023–0044 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). For information on DOT's compliance with the Privacy Act, please visit *https://www.transportation.gov/privacy.*

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2023–04640 Filed 3–6–23; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2023–0054]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: WAR HORSE (Motor); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before April 6, 2023.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2023–0054 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2023–0054 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2023–0054, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel WAR HORSE is:

—Intended Commercial Use of Vessel: ''Daytime fishing and sight-seeing charters.''
—Geographic Region Including Base of Operations: ''California.'' (Base of Operations: Huntington Harbor, CA)
—Vessel Length And Type: 36.1' Motor.

The complete application is available for review identified in the DOT docket as MARAD 2023–0054 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES.** Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise

comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2023–0054 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

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(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2023–04652 Filed 3–6–23; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2023–0043]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: HILLBILLY EXPRESS (Motor); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before April 6, 2023.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2023–0043 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2023–0043 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2023–0043, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, email *James.Mead@dot.gov.*

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel HILLBILLY EXPRESS is:

—*Intended Commercial Use of Vessel:* ''Charter fishing.''

—*Geographic Region Including Base of Operations:* ''Maryland, Virginia, North Carolina.'' (Base of Operations: Chincoteague, VA)

—*Vessel Length and Type:* 30′ Motor

The complete application is available for review identified in the DOT docket as MARAD 2023–0043 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2023–0043 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that

you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

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(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2023–04644 Filed 3–6–23; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2017–0042; Notice 2]

BMW of North America, LLC, Grant of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Grant of petition.

SUMMARY: BMW of North America, LLC (BMW), a subsidiary of BMW AG, Munich, Germany, has determined that certain model year (MY) 2018 BMW M4 Coupe and BMW M4 convertible motor vehicles do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 110, *Tire Selection and Rims and Motor Home/Recreation Vehicle Trailer Load Carrying Capacity Information for Motor Vehicles with a GVWR of 4,536 kilograms (10,000 pounds) or Less.* BMW filed a noncompliance report dated April 26, 2017, and subsequently petitioned NHTSA on May 19, 2017, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This document announces the grant of BMW's petition.

FOR FURTHER INFORMATION CONTACT: Ahmad Barnes, Office of Vehicle Safety Compliance, the National Highway Traffic Safety Administration (NHTSA), telephone (202) 366–7236.

SUPPLEMENTARY INFORMATION:

I. Overview

BMW has determined that certain MY 2018 BMW M4 Coupe and BMW M4 convertible motor vehicles do not fully comply with one or more of the following paragraphs: S4.3(a), S4.3(c) and S4.3(d) of FMVSS No. 110, *Tire Selection and Rims and Motor Home/Recreation Vehicle Trailer Load Carrying Capacity Information for Motor Vehicles with a GVWR of 4,536 kilograms (10,000 pounds) or Less* (49 CFR 571.110). BMW filed a noncompliance report dated April 26, 2017, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports.* BMW subsequently petitioned NHTSA on May 19, 2017, for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, *Exemption for Inconsequential Defect or Noncompliance.*

Notice of receipt of BMW's petition was published in the **Federal Register** (82 FR 40640) with a 30-day public comment period, on August 25, 2017. One comment was received. To view the petition and all supporting documents log onto the Federal Docket Management System (FDMS) web page at: *http://www.regulations.gov/.* Then follow the online search instruction to locate docket number ''NHTSA–2017–0042.''

II. Vehicles Involved

Approximately 93 MY 2018 BMW M4 Coupe and BMW M4 Convertible motor vehicles, manufactured between February 28, 2017, and March 24, 2017, are potentially involved.

III. Noncompliance

BMW describes three noncompliances of the affected vehicles equipped with a vehicle placard that may not fully conform to FMVSS No. 110. Although the affected vehicles were equipped with 20-inch tires, the FMVSS No. 110 vehicle placard states that the vehicles were equipped with 18-inch tires. Additionally, the vehicle placard for the BMW M4 Coupe states a vehicle capacity weight of 390 kilograms (kg) although it should state a vehicle capacity weight of 381 kg. Furthermore, the placard for the BMW M4 Convertible states a manufacturer's recommended cold tire inflation pressure of 32 psi when it should state a tire inflation pressure of 33 psi.

IV. Rule Requirements

Paragraph S4.3 of FMVSS No. 110 includes the requirements relevant to this petition. Each vehicle, except for a trailer or incomplete vehicle, shall show the information specified in paragraph S4.3 (a) through (g), and may show, at the manufacturer's option, the information specified in paragraphs S4.3 (h) and (i), on a placard permanently affixed to the driver's side B-pillar. The information shall be in the English language and conform in color and format, not including the border surrounding the entire placard, as shown in the example set forth in Figure 1 of FMVSS No. 110. Additionally, the vehicle placard must state the vehicle manufacturer's recommended cold tire inflation pressure for front, rear and spare tires. The vehicle placard must state the tire size designation, indicated by the headings ''size'' or ''original tire size'' or ''original size'' and ''spare tire'' or ''spare,'' for the tires installed at the time of first purchase for purposes other than resale.

V. Summary of BMW's Petition

The following views and arguments presented in this section, ''V. Summary of BMW's Petition,'' are the views and arguments provided by BMW. They have not been evaluated by the Agency and do not reflect the views of the Agency. BMW describes the subject noncompliance and states its belief that the noncompliance is inconsequential as it relates to motor vehicle safety.

BMW states that the affected BMW M4 Coupe motor vehicles were equipped with 20-inch tires while the vehicle placard incorrectly states that the vehicles are equipped with 18-inch tires and indicates a vehicle capacity weight of 390kg. The placard should state that the vehicles are equipped with 20-inch tires and have a vehicle capacity weight of 381 kg.

Based on its analysis and evaluation of the components, and systems including brakes, steering, and suspension in the BMW M4 Coupe motor vehicles, BMW believes that the incorrect vehicle capacity weight of 390 kg provided on the noncompliant vehicle placard ''will not result in a vehicle overload condition.'' Furthermore, BMW explains that ''the vehicle was designed to account for a larger vehicle capacity weight than the weight stated on the tire information placard.''

BMW states that the BMW M4 Coupe vehicles ''are equipped with a Part 567 certification label which states accurate information for the Gross Vehicle Weight Rating (GVWR).'' Therefore, BMW contends that ''a vehicle operator who uses this information would be able to determine the correct maximum vehicle weight.''

The BMW M4 Convertible vehicles were equipped with a tire information placard that incorrectly states that they were equipped with 18-inch tires when it should state that the subject vehicles were equipped with 20-inch tires. The placard also lists the manufacturer's recommended tire inflation pressure as 32 psi when it should have been marked 33 psi.

BMW claims that the tires installed on the subject convertible motor vehicles will not result in a vehicle overload condition in both the front and rear tires when the subject tires are inflated to the incorrectly listed manufacturer's recommended cold tire inflation pressure of 32 psi. BMW says that the subject convertible vehicle tires comply with FMVSS No. 110 S4.2.1 which requires the vehicle normal load to be no more than 94 percent of the load rating at the vehicle manufacturer's recommended cold inflation pressure for that tire. The vehicle normal load on the tire is the load on an individual tire that is calculated by distributing each axle's share of the curb weight, accessory weight, and normal occupant weight, and dividing by 2. BMW calculated that a normal load per front tire is 534 kg and a normal load per rear tire is 466 kg. According to BMW's assessment, the subject tires comply with FMVSS No. 110 S4.1.2 which requires the vehicle normal load to be no more than 94 percent of the load rating at the vehicle manufacturer's recommended cold inflation pressure for that tire.

The load rating is the highest vehicle maximum load on the tire for the vehicle and is provided by the sources listed in S4.4.2 (a). Using the European Tyre and Rim Technical Organization (ETRTO) Standard Load table, BMW says the load rating for the front tire is 605 kg and the load rating for the rear tires is 700 kg. The sum of the load ratings for the front tires is 1,210 kg and the GAWR is 1,050 kg and the sum of the load ratings for the rear tires is 1,400 kg and the GAWR is 1,250 kg. Therefore, BMW says the 20-inch front and rear tires, ''inflated to 32 psi, are sufficient to support vehicle loading.''

BMW says there are multiple sources available to the consumer to determine the correct tire pressure for tires equipped on the subject convertible vehicles. Specifically, BMW refers to FMVSS No. 110 S4.3(f) which requires that the tire information placard instructs the consumer to see Owner's Manual for additional information. BMW also refers to FMVSS No 138 S4.5(a) which requires the Owner's Manual to contain a statement that instructs the consumer to check each tire's inflation pressure monthly and if the consumer finds that the vehicle has tires of a different size than the size indicated on the vehicle placard or tire inflation pressure label, the consumer should determine the proper tire inflation pressure for those tires.

Because those statements required by FMVSS No. 110 S4.3(f) and FMVSS No. 138 S4.5(a) are present in the Owner's Manual provided hardcopy and electronically in the vehicle, BMW contends that a consumer would be able to access the information needed to set the tire inflation pressures to the correct levels. Furthermore, BMW says a consumer can contact its customer relations service or its roadside assistance service which has representatives available 24/7 to assist with determining the correct tire pressure. The consumer is able to access the contact information for the roadside assistance service in the vehicle's portfolio, the vehicle's media console and via the emergency call button on the overhead console. The customer relations contact information can be found in the vehicle's portfolio, Owner's Manual and the Service and Warranty Book.

BMW states that its customer relations service has not received any contacts regarding the subject noncompliances. BMW is also unaware of any consumer experiencing issues or any accidents or injuries related to the subject noncompliances

BMW says that NHTSA has granted prior petitions that are similar to the subject petition. BMW does not reference a specific petition but states that NHTSA found ''that although the tire information placard displayed the manufacturer's recommended cold tire inflation pressure which was a smaller value than that which was required for the tires equipped on the vehicle, the load carrying capacity of the equipped tires, at this smaller tire pressure, was still sufficient and would not lead to a vehicle overload condition.

BMW concluded by expressing the belief that the noncompliances are inconsequential as they relate to motor vehicle safety, and that its petition to be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, should be granted.

VI. Comments

NHTSA received one comment from the general public. While NHTSA takes great interest in the public's concerns and appreciates the commenter's feedback, the comment does not address the purpose of this particular petition.

VII. NHTSA's Analysis

The intent of FMVSS No. 110 is to ensure that vehicles are equipped with tires that are properly inflated to handle maximum vehicle loads and to provide relevant information to prevent overloading.

According to BMW, the M4 Coupe model's Tire and Loading Information label incorrectly displays a Vehicle Capacity Weight of 390 kg instead of the correct amount of 381 kg. BMW has determined that there would not be any adverse impact on these vehicles because the vehicle was designed to account for a larger vehicle capacity weight than the weight stated on the tire loading label. NHTSA concurs with BMW's rationale. A load of 9 kg ((20) pounds or (5) pounds per tire) is a 1 percent difference in the loading on each tire. We believe this loading to be well within the design safety factor of

the tires. As stated by BMW, we also agree that the additional 9 kg load should not adversely affect vehicle braking, steering and stability due to the robustness of the subject vehicles being capable of accounting for a larger vehicle capacity weight than stated on the tire information placard. This marginal load should be within the design safety factor of the vehicle components as well.

NHTSA also concurs with BMW's statement that a vehicle designed to withstand a larger capacity weight than stated on its tire loading label would not present a consequential safety problem. Although the M4 Convertible is equipped with 20-inch tires, the model's Tire and Loading Information label incorrectly displays a cold tire pressure of 32 psi when it should display 33 psi. Considering the specifications of the 20-inch tires in the ETRTO reference book, it is apparent that even at the lower listed tire pressure, the tires are more than adequate to carry the vehicle's load. The vehicle's equipped tires are Extra Load (XL) tires. ETRTO specifies use of Standard Load tables for tire pressures up to 36 psi. The load index for the front tires is 94 and at a pressure of 32 psi results in a load capacity of 605 kgs or 1210 kgs for the front axle. The GAWR for the front axle is 1050 kgs. The load index for the rear tires is 99 and at a pressure of 32 psi results in a load capacity of 700 kgs or 1400 kgs for the rear axle. The GAWR for the rear axle is 1250 kgs. Therefore, there is adequate load carrying capacity in the tire at the lower pressure and there is no safety issue resulting in underinflation of tires if a consumer uses the tire pressure on the vehicle's label.

Paragraph S4.2.1.2 of FMVSS No. 110 requires that the vehicle normal load on the tire shall not be greater than 94 percent of the load rating at the vehicle manufacturer's recommended cold inflation pressure for that tire. The vehicle normal load per tire is calculated by distributing 2 occupants (for a 4-occupant vehicle), at the front axle. Per FMVSS No. 110 definition of vehicle capacity weight, using 68 kgs per occupant results in a vehicle normal load per front tire of 534 kgs and a normal load per rear tire of 466 kgs.

BMW explained that they utilized a worst-case scenario by calculating the vehicle's normal load using an automatic transmission because it has a greater weight than the manual transmission, both of which may be utilized in the subject vehicles. For the front tires, the load rating is 605 kgs each, when multiplied by 94 percent, yields a value of 568 kgs, which exceeds the previously stated 534 kg normal vehicle load value. For the rear tires, the load rating is 700 kgs each, when multiplied by 94 percent yields a value of 658 kgs, which exceeds the previously stated 466 kg normal vehicle load value. NHTSA concurs with utilizing a worst-case scenario approach to these calculations as it is all inclusive of the affected vehicle population.

The purpose of the FMVSS No. 110 tire information label is to convey accurate information for the vehicle to be operated in a safe manner. As is the case with BMW in this petition, should a vehicle operator require additional or corroborating information regarding the vehicle's Tire and Loading Information Label, there are other information sources that can be consulted to clearly identify—in this case—the correct tire pressure. Should a vehicle operator ever question what the correct tire pressure should be, they can consult the vehicle's hardcopy owner's manual, the in-vehicle electronic owner's manual, or contact BMW directly for further information in order to verify the correct tire pressure.

NHTSA has previously granted petitions for inconsequential noncompliance regarding FMVSS No. 110 related to vehicles for which the vehicle placard contained tire size and tire pressure information which did not match the tires equipped on the vehicle under similar conditions.

VIII. NHTSA's Decision

NHTSA agrees with BMW that the subject noncompliance is inconsequential to motor vehicle safety because there would be no effect of the noncompliance on the operational safety of the subject vehicles. No adverse impact on braking, steering or on-road stability can result in driving the subject vehicles at the incorrect vehicle capacity weight listed on the tire information placard. The vehicles were designed to account for a larger vehicle capacity weight than the weight stated on the tire information placard. Furthermore, the affected vehicles can maintain the maximum vehicle loads even at the lower manufacturer's recommended cold tire inflation pressure on the tire information placard.

In consideration of the foregoing, NHTSA finds that BMW has met its burden of persuasion that the FMVSS No. 110 noncompliance in the affected vehicles is inconsequential to motor vehicle safety. Accordingly, BMW's petition is granted and BMW is exempted from the obligation of providing notification of, and a free remedy for, that noncompliance under 49 U.S.C. 30118 and 30120.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, this decision only applies to the subject vehicles that BMW no longer controlled at the time it determined that the noncompliance existed. However, the granting of this petition does not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant vehicles under their control after BMW notified them that the subject noncompliance existed.

(Authority: 49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8)

Otto G. Matheke, III,

Director, Office of Vehicle Safety Compliance.

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